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| Memo | <div>Summarized copy open 3/14/96</div> Lipshutz to Pres. Carter, 9 pp., re: Disclosure of documents | 3/13/78 | A |
| Memo | Jack Watson to Pres. Carter, 5 pp., re: CSA funding <div>OPENED 4/26/94</div> | 3/13/78 | A |
| Memo | John White to Pres. Carter, 4 pp., re: DNC funding <div>open 8/6/93</div> | 3/13/78 | C |

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THE WHITE HOUSE
WASHINGTON
March 13, 1978

Peter Bourne

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hatcheson

RE: THE ROLE OF INTELLIGENCE
AND NARCOTICS CONTROL AND
INTERDICTION

THE WHITE HOUSE
WASHINGTON

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| | ENROLLED BILL |
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| | EXECUTIVE ORDER |
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THE PRESIDENT HAS SEEN.

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THE WHITE HOUSE

WASHINGTON

February 28, 1978

Dear Mr. President:

I am pleased to forward to you the policy review on "The Role of Intelligence in Narcotics Control and Interdiction." It is the result of one of several drug policy reviews conducted at your request.

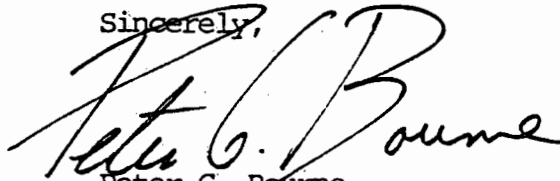
This comprehensive review of the Federal narcotics intelligence collection and production effort was conducted by an interagency team representing the principal Federal Departments and agencies involved in the narcotics intelligence process. The team included representatives from the Departments of State, Treasury and Justice, the Drug Enforcement Administration, the U.S. Customs Service, the Internal Revenue Service, the Central Intelligence Agency, the [REDACTED] the Federal Bureau of Investigation and an observer from the Office of Management and Budget.

The recommendations in this report are now being implemented. When completed, these actions will result in (a) a clarification of the narcotics intelligence collection and production roles and responsibilities of certain Federal agencies and Departments; (b) increased Federal agency participation in narcotics intelligence collection and production; (c) more effective use of foreign and domestic narcotics information sources and methods; and (d) a system to forecast worldwide licit and illicit opium poppy cultivation.

The findings and recommendations of the report will be presented to the Strategy Council on Drug Abuse Prevention for the appropriate follow-up and consideration in the preparation of the 1978 Federal Strategy for Drug Abuse Prevention. Additionally, the report will be furnished to the Office of Management and Budget for consideration in its reorganization studies.

Thank you for your continued interest in and dedication to the reduction of drug abuse.

Sincerely,



Peter G. Bourne
Director
Office of Drug Abuse Policy

The President
The White House
Washington, D. C.

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E.O. 12958, Sec. 3.6

PER 2/12/96 BY HRE MR-MK-12-13

BY [signature] NARS DATE 2/23/96

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OFFICE OF DRUG ABUSE POLICY

SUPPLY CONTROL: THE ROLE OF INTELLIGENCE IN NARCOTICS CONTROL AND INTERDICTION

FEBRUARY 1978

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THE ROLE OF INTELLIGENCE
IN NARCOTICS CONTROL AND INTERDICTION

- A POLICY REVIEW -

February 1978

THE OFFICE OF DRUG ABUSE POLICY
THE EXECUTIVE OFFICE OF THE PRESIDENT

CLASSIFIED BY PETER G. BOURKE
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE OF EXECUTIVE ORDER 11652
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BY JAY NARS. DATE 2/21/96

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THE WHITE HOUSE

WASHINGTON

February 28, 1978

Dear Mr. President:

I am pleased to forward to you the policy review on "The Role of Intelligence in Narcotics Control and Interdiction." It is the result of one of several drug policy reviews conducted at your request.

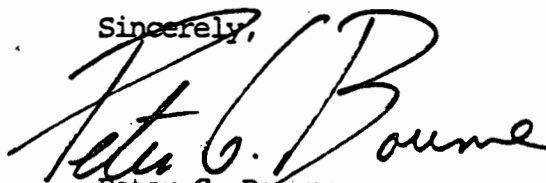
This comprehensive review of the Federal narcotics intelligence collection and production effort was conducted by an interagency team representing the principal Federal Departments and agencies involved in the narcotics intelligence process. The team included representatives from the Departments of State, Treasury and Justice, the Drug Enforcement Administration, the U.S. Customs Service, the Internal Revenue Service, the Central Intelligence Agency, the [REDACTED] the Federal Bureau of Investigation and an observer from the Office of Management and Budget.

The recommendations in this report are now being implemented. When completed, these actions will result in (a) a clarification of the narcotics intelligence collection and production roles and responsibilities of certain Federal agencies and Departments; (b) increased Federal agency participation in narcotics intelligence collection and production; (c) more effective use of foreign and domestic narcotics information sources and methods; and (d) a system to forecast worldwide licit and illicit opium poppy cultivation.

The findings and recommendations of the report will be presented to the Strategy Council on Drug Abuse Prevention for the appropriate follow-up and consideration in the preparation of the 1978 Federal Strategy for Drug Abuse Prevention. Additionally, the report will be furnished to the Office of Management and Budget for consideration in its reorganization studies.

Thank you for your continued interest in and dedication to the reduction of drug abuse.

Sincerely,



Peter G. Bourne
Director

Office of Drug Abuse Policy

The President
The White House
Washington, D. C.

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EXECUTIVE SUMMARY

Experience during the past decade has demonstrated that hard and reliable intelligence is the lifeblood of an effective narcotics control and interdiction program. Without such information, narcotics enforcement would operate only on a target of opportunity basis and diplomacy would lack the convincing evidence with which to persuade foreign governments to take more forceful action against indigenous narcotics production and trafficking.

Under the auspices of the Office of Drug Abuse Policy (ODAP), an interagency team was assembled consisting of representatives from the Departments of State, Treasury and Justice, the Drug Enforcement Administration (DEA), the U.S. Customs Service, the Internal Revenue Service (IRS), the Central Intelligence Agency (CIA), the [REDACTED], the Federal Bureau of Investigation (FBI), and an observer from the Office of Management and Budget (OMB). Specifically, the team was asked to identify deficiencies in the narcotics intelligence system and to make recommendations as to how to improve the quantity and quality of narcotics intelligence available to Federal agencies and the White House. Three questions were addressed:

1. Is the U.S. Government obtaining and utilizing all available sources of foreign and domestic narcotics intelligence?
2. Do existing procedures for formulating narcotics intelligence collection requirements enhance the production of analyzed intelligence?
3. What structure within the Executive Branch would improve interagency exchange and coordination of narcotics intelligence:


The Study identifies six issues adversely affecting the performance of the existing Federal narcotics intelligence system and makes recommendations designed to correct these deficiencies as follows:

1. The roles and responsibilities of the principal Federal agencies and Departments engaged in the narcotics intelligence process are vague and imprecise and have led to unnecessary friction, fragmented collection and, in some instances, a lack of initiative. Refined and updated revisions of roles and responsibilities are described on pages 58-61 of the Study.

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2. There are currently no formal interagency mechanisms for the coordination of Federal level foreign and domestic collection, analysis, dissemination and evaluation of narcotics intelligence. Lacking such a structure, narcotics intelligence coordination at the Federal level tends to be done in an ad hoc fashion. There is a pressing need for such a coordination structure to standardize requirements and procedures within the Executive Branch. To meet this need while ensuring complete separation, in appearance as well as in actuality, of U.S. foreign intelligence agencies from any involvement in domestic law enforcement activities, the establishment of two formal interagency committees is recommended:


- a. A National Narcotics Intelligence Consumers Committee (NNICC), under the Strategy Council on Drug Abuse, composed of the principal consumers of narcotics intelligence (see page 62). The NNICC would coordinate the formulation of and priorities for narcotics intelligence requirements. Collection and production requirements requiring action by U.S. foreign intelligence agencies would be referred to the Foreign Narcotics Intelligence Committee (see below) for validation and tasking.
 - b. A Foreign Narcotics Intelligence Committee (FNIC) within the National Foreign Intelligence Board (NFIB) structure
- 

3. While drug seizures have increased in certain drug trafficking countries due to improved narcotics support, interdiction intelligence required by U.S. Customs to fulfill its mission at the U.S. borders and ports of entry has been inadequate, despite the efforts of the collecting agencies. At the same time, and even within its current limited charter, Customs has devoted insufficient resources to collecting narcotics interdiction intelligence. To improve the volume and flow of narcotics interdiction intelligence, it was determined that U.S. Customs should have an increased role in the narcotics intelligence process (see pages 59 and 64-65). Under this statement of

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mission, Customs is authorized to collect narcotics interdiction intelligence, provided that this information is also made available to DEA in a timely manner and that any further initiatives (e.g., investigations) by Customs beyond the collection of information be undertaken only with DEA concurrence under mutually agreed procedures. These procedures are currently being negotiated by DEA and Customs.

4. Increased intelligence on the illicit financial transactions of major drug traffickers could significantly contribute to the securance of indictments and convictions of these traffickers by DEA, IRS and other appropriate Federal enforcement agencies. At present there is insufficient information to accomplish this goal on a large scale. The IRS, in conjunction with DEA and Customs, is taking steps to correct this problem but financial intelligence still largely represents an untapped resource within the Federal Government. A number of specific recommendations to increase the quality and flow of financial narcotics-related intelligence appear on pages 66-68 of the Study.
 5. Legal and administrative constraints have limited the usefulness of narcotics intelligence obtained from sensitive source operations abroad. The collection of operational and tactical narcotics intelligence by the U.S. foreign intelligence agencies, has fostered, within certain law enforcement agencies, a reluctance to use any information derived from sensitive source operations for fear that the information may be ordered disclosed in the U.S. judicial system. The foreign intelligence agencies are reluctant to provide narcotics-related information derived from sensitive source operations for fear that the source of the information will have to be revealed in the event of a prosecution. There is an additional concern that the source may have to be revealed in the event of a civil suit filed by a criminal defendant alleging violation of his civil rights.
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These initiatives together with additional recommendations discussed on pages 69-70 of the Study will allow Federal law enforcement agencies and narcotics policy officials to make better use of valuable sensitive source narcotics intelligence.

The Study recommends

the establishment of an interdisciplinary team to exploit all-source data, in order to provide strategic overviews and forecasts of worldwide opium poppy cultivation.

The recommendations in this Study are now being implemented. When completed, these actions will result in (a) a clarification of the narcotics intelligence collection and production roles and responsibilities of certain Federal agencies and Departments; (b) increased Federal agency participation in narcotics intelligence collection and production; (c) more effective use of foreign and domestic narcotics information sources and methods; and (d) a system to forecast worldwide licit and illicit opium poppy cultivation.

The recent publication of Executive Order 12036 on foreign intelligence activities will serve to enhance the collection and production of narcotics intelligence within the U.S. foreign intelligence community, in part, by according to the narcotics intelligence collection mission a special status comparable to the one assigned to terrorism intelligence.

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THE ROLE OF INTELLIGENCE
IN NARCOTICS CONTROL AND INTERDICTION

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I. INTRODUCTION

Experience during the past decade has demonstrated that hard and reliable intelligence is the lifeblood of an effective narcotics control and interdiction program. Without such information, narcotics enforcement would operate only on a target of opportunity basis and diplomacy would lack the hard evidence with which to persuade foreign governments to take more forceful action against their local narcotics production and trafficking. The collection, analysis and dissemination of narcotics intelligence, therefore, are essential to the realization of our current Federal Narcotics Control Strategy aimed at reducing the supply of narcotics.

There are four zones of defense to consider in reducing the flow of narcotics into the United States and consequently four areas where narcotics intelligence plays a vital role: a) the areas where the opium poppies or coca bushes are illicitly grown; b) the foreign laboratories and refining centers where the narcotics are produced; c) the major international and domestic narcotics traffickers and their organizations who are responsible for this production and whose scope of operations exceeds the geographical boundaries of any one country or continent; and d) the U.S. borders and ports of entry where the narcotics are interdicted. Once the narcotics have been successfully smuggled past this last zone of defense, the Federal Government is forced to engage in a massive drug law enforcement effort.

The recent publication of Executive Order 12036 on foreign intelligence activities will serve to enhance the collection and production of narcotics intelligence within the U.S. foreign intelligence community, in part, by according to the narcotics intelligence collection mission a special status comparable to the one assigned to terrorism intelligence.

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A. Purpose

In conjunction with the President's organization and policy review of the Executive Branch, a study of the value and effectiveness of narcotics intelligence collection and production by the Executive Branch was initiated by the Office of Drug Abuse Policy (ODAP). An underlying premise of this review is that narcotics intelligence* is not an end in itself but a product designed to support policy decisions, diplomatic initiatives and law enforcement efforts including drug interdiction.

In accordance with the President's memorandum of March 14, 1977, on the activation of the Office of Drug Abuse Policy (ODAP) and the revitalization of the Strategy Council, ODAP was charged with the following:

- .. "Recommend government-wide improvements in the organization and management of Federal drug abuse prevention and control functions, and recommend a plan to implement the recommended changes;
- .. Study and recommend changes in the resource and program priorities among all agencies concerned with drug abuse, prevention, and control;
- .. Assume the lead role in studying and proposing changes in the organization and management of Federal drug abuse prevention and control functions, as part of my promise to reorganize and strengthen government operations.
- .. Provide policy direction and coordination among the law enforcement, international and treatment/prevention programs to assure a cohesive and effective strategy that both responds to immediate issues and provides a framework for longer term resolution of problems."

To meet these responsibilities, a team consisting of representatives from the Department of State, Department of the Treasury, U.S. Customs Service, Internal

* For the purpose of this study, the term "narcotics intelligence" encompasses dangerous drug intelligence as well as narcotics drug intelligence.

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Revenue Service (IRS), Department of Justice, the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the Central Intelligence Agency (CIA), the [REDACTED] and the coordinator from the Office of Drug Abuse Policy (ODAP) was assembled in May 1977 to review the status of narcotics intelligence within the Executive Branch. Collectively, the agencies responsible for narcotics intelligence collection and production within the Executive Branch have three principal interrelated missions:

- 1) to provide coordinated, timely and accurate evaluated strategic intelligence for Executive Branch policy echelons:
- 2) to supply evaluated operational information for the use of those in the Executive Branch charged with conducting international narcotics control programs; and
- 3) to collect, analyze, and disseminate evaluated and unevaluated tactical and operational intelligence to support domestic and international narcotics law enforcement agencies.

In keeping with these missions, the members of the team were asked to submit comments and recommendations on the following key issues.

- 1) Whether the U.S. Government is obtaining and utilizing all available sources of foreign and domestic narcotics intelligence. Specifically, the team was asked to (a) identify those sources not being adequately exploited; (b) identify the constraints which inhibit upgrading the quality and quantity of narcotics intelligence collected and disseminated; and (c) recommend any changes which could relieve these constraints.
- 2) Whether the Federal narcotics intelligence collection requirements enhance narcotics intelligence production. Specifically, the team was asked to (a) identify the narcotics intelligence collection and production requirements of each Federal agency or department involved in the Federal drug control effort; (b) determine how these requirements

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are formulated and coordinated within and among the executive branch agencies and departments; and (c) define each agency's or department's method of evaluating the information collected against these requirements.

- 3) Whether there should be a structure within the Executive Branch to assure interagency guidance and coordination of narcotics intelligence. Specifically, the team was asked to (a) determine whether there is a need for such a structure and if so, what form this structure should assume; and (b) define the responsibilities of this structure and determine how they will be fulfilled.

As implied in the three principal tasks cited above, the main objective of this study is to improve the quantity and quality of narcotics intelligence available to the Executive Branch of the Federal Government. This study does not intend to treat any immediate structural reorganizations nor any budget and resource allocations to meet this objective but rather to determine how the Federal narcotics intelligence process can best be improved to meet our national responsibilities within the existing structures created by Reorganization Plan No. 2.

B. Definitions

In order to begin with a common understanding of the various terms of reference used throughout this review, the following definitions are provided:

Tactical Narcotics Intelligence

Information of a perishable nature which contributes directly and indirectly to the conduct of law enforcement actions, including the arrest of traffickers and the seizure of drugs or materials or facilities involved in illicit drug production. On the international scale, this information is provided to foreign law enforcement services to enable them to take action against traffickers or laboratories, or is used to alert U.S. domestic enforcement agencies to the arrival of drug traffickers or shipments. On the domestic level, this information is used by law enforcement agencies to mount specific actions against suspected violators, laboratories, etc.

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Operational Narcotics Intelligence

Systematically organized information on active or potentially active narcotics trafficking groups, their routes and operations. It is intended to assist the consumers in (a) narrowing the search for new groups or routes, (b) developing leads which allow for more detailed investigations, (c) targeting the principal organizations, (d) assessing their vulnerabilities, and (e) effecting interdiction. Operational intelligence is subject to relatively frequent updating as a result of the changing character of the drug organizations and their trafficking patterns.

Strategic Narcotics Intelligence*

The product of evaluating and analyzing narcotics related intelligence collected from one or several sources which enables policy levels and management to gain a comprehensive understanding of the international and domestic narcotics threat and the attendant magnitude of the narcotics abuse problem. This comprehensive overview which includes, but is not limited to, narcotics trafficking patterns, drug availability and foreign political and social attitudes related to narcotics activities, assists policy makers in the formulation and conduct of a Federal narcotics control strategy.

Narcotics Intelligence Collection

The gathering of information concerning the cultivation, production and trafficking of illicit narcotics. Specifically, narcotics intelligence collection distinguishes itself from narcotics investigation in that,

1. Narcotics intelligence is collected to satisfy general policy requirements and to anticipate future events affecting narcotics control.

*The term "strategic intelligence" has been used in the past by some law enforcement officers and foreign intelligence officers to mean a specific kind of information which is collected rather than an evaluated intelligence product as defined above. Where the understanding of strategic intelligence as collected information prevails the term shall appear in quotation marks.

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2. Narcotics intelligence provides a broad understanding of narcotics trafficking networks and operations.
3. Narcotics intelligence is collected to provide leads which could assist in determining whether an interdiction should be effected and/or whether an investigation leading toward prosecution should be undertaken.

Although the ultimate end of narcotics intelligence collection may differ from the ultimate end of a narcotics investigation, the means or methods to achieve these ends overlap and cover a wide spectrum of activity depending upon human and technical resources.

Clandestine Intelligence Collection

Any one or more of the gathering, analysis, dissemination or storage of non-publicly available information without the informed express consent of the subject of the information. [REDACTED]

[REDACTED] DEA foreign narcotics information collection does not fall within this definition because it is conducted within the context of an official liaison relationship and with the knowledge and consent of the local host government as required by DEA's foreign guidelines.

National Narcotics Intelligence System

Pursuant to provisions of E.O. 11676 (7/27/72) as revoked and reassigned by E.O. 11727 (7/6/73), and as codified by regulation in 28 CFR 0.101(b), the Administrator of DEA has the following responsibilities:

"... for the development and maintenance of a National Narcotics Intelligence System. In developing that system the Director (Administrator) shall call upon other agencies of the Government to provide him with information, and such agencies shall, to the extent permitted by law, provide the Director (Administrator) with all information that is pertinent to the development and maintenance of a National

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Narcotics Intelligence System. The Director (Administrator) shall also call upon State and local agencies to provide him with such information." (E.O. 11676). "The development and maintenance of a National Narcotics Intelligence System in cooperation with Federal, State, and local officials, and the provision of narcotics intelligence to any Federal, State, or local official that the Administrator determines has a legitimate official need to have access to such intelligence." (28 CFR 0.101(b)).

Pursuant to the above responsibilities, DEA assembles information contributed by the Federal departments and agencies charged with collecting, analyzing, producing and disseminating narcotics intelligence. This data base is developed and maintained by DEA as a service of common concern to meet the needs of all Federal departments and agencies, State and local agencies engaged in U.S. drug control programs and, when appropriate, foreign agencies supporting U.S. drug control programs. Also pursuant to the above responsibilities, DEA coordinates the consolidation and maintenance of the contributed narcotics intelligence information with the concerned Federal, State and foreign agencies.

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II. CHARTERS AND MISSIONS OF THE DEPARTMENTS AND AGENCIES PRINCIPALLY INVOLVED IN THE NARCOTICS INTELLIGENCE PROCESS

A. Department of State

The Department of State has the leadership role in formulating and coordinating national policies designed to control the international movement of narcotics and dangerous drugs.

To perform this role the Department has a keen interest in the collection and coordination of narcotics intelligence and works with the foreign intelligence community in formulating narcotics intelligence requirements, and in assisting in the coordination of the tasking of these requirements, and in evaluating the quality of narcotics intelligence products.

The Department is responsible for reporting and evaluating (a) the attitudes, capabilities, and commitments of foreign governments with regard to the international narcotics problem and (b) the political, economic, and sociological factors which affect the ability and resolve of these governments to conduct active control programs.

The Department has delegated to all Chiefs of Mission the responsibility to direct and coordinate the narcotics intelligence collection effort in foreign countries.

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B. Drug Enforcement Administration

Under Reorganization Plan No. 2, dated July 1, 1973, the Drug Enforcement Administration (DEA) was designated the responsible agency for the development and implementation of a concentrated program within the Federal Government for the enforcement of the Federal drug laws and the development and maintenance of a National Narcotics Intelligence System (NNIS)*. Specifically, Title 28, §.101(b) states that the Administrator of DEA shall be responsible "for the development and maintenance of a National Narcotics Intelligence System in cooperation with Federal, State and local officials, and the provision of narcotics intelligence to any Federal, State, or local official that the Administrator determines has a legitimate official need to have access to such intelligence."

Under Executive Order 12036, dated January 24, 1978, the Drug Enforcement Administration shall:

"1-1501. Collect, produce and disseminate intelligence on the foreign and domestic aspects of narcotics production and trafficking in coordination with other agencies with responsibilities in these areas;

1-1502. Participate with the Department of State in the overt collection of general foreign political, economic and agricultural information relating to narcotics production and trafficking; and

1-1503. Coordinate with the Director of Central Intelligence to ensure that the foreign narcotics intelligence activities of DEA are consistent with other foreign intelligence programs."

* See definition of NNIS on page 6.

C. U. S. Customs Service

Under Reorganization Plan No. 2, the U. S. Customs Service retained those responsibilities related to searches and seizures of illicit narcotics at the borders and those duties related to the apprehension of persons connected with the illegal traffic. As a follow-up to the Reorganization Plan, a Memorandum of Understanding was signed in December 1975. One purpose of this agreement was to promote an increased flow of narcotics intelligence to Customs and the appropriate dovetailing of Customs interdictory activity with the overall narcotics strategy. Specifically, the nine points which address international and domestic drug intelligence under Section 6 of this agreement outline (a) the separate intelligence responsibilities of DEA and Customs and (b) the necessary interrelated intelligence responsibilities of both agencies.

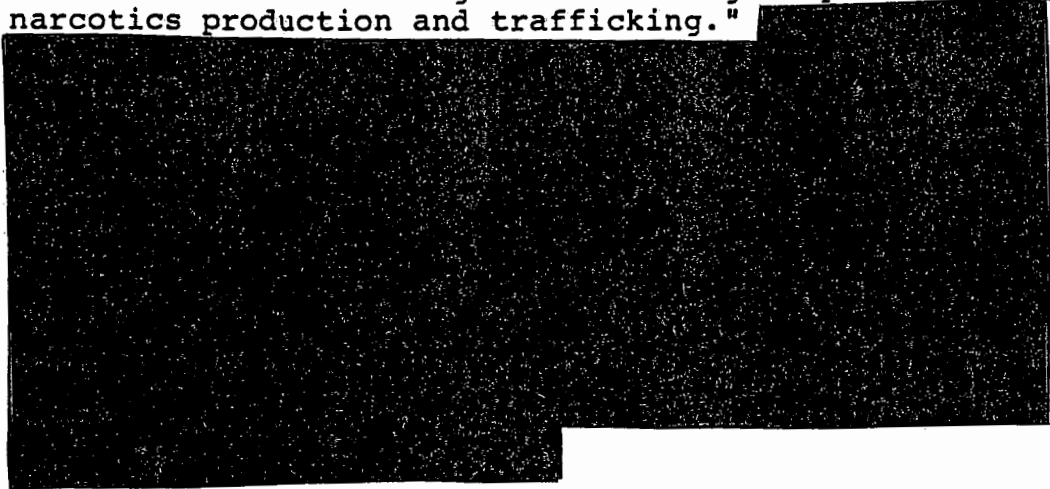
Customs' limited authority for narcotics intelligence collection stems from the following excerpt from this agreement:

"Customs has primary responsibility for intelligence gathering of smuggling activities and also a supportive role to DEA in drug smuggling and trafficking. Nothing in this agreement precludes Customs from gathering information from the air and marine community related to the smuggling of contraband. Customs will continue to maintain liaison and gather information from foreign Customs services on all smuggling activities."

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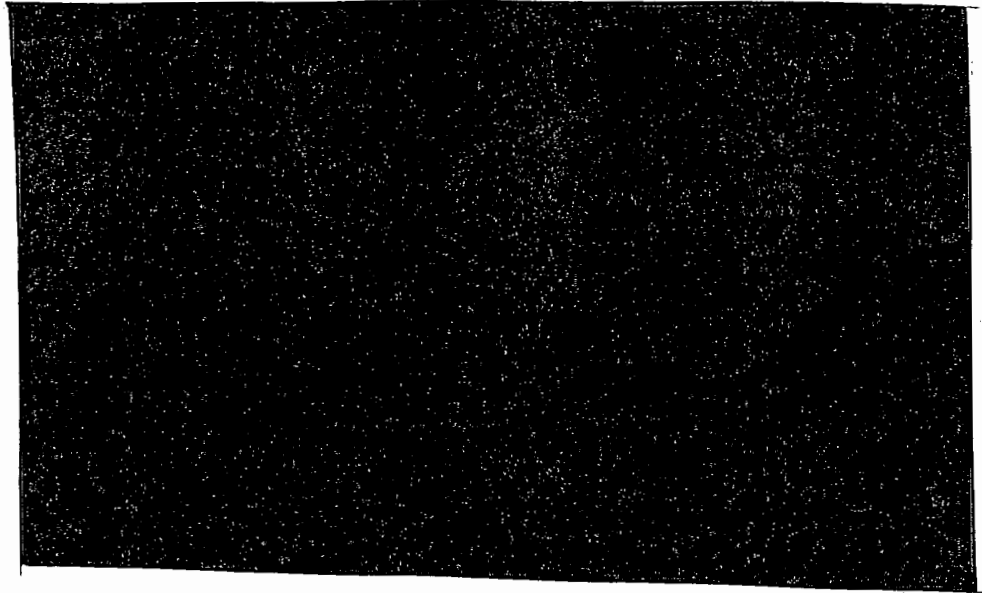
D. Central Intelligence Agency

Under Section 1-803 of Executive Order 12036 dated January 24, 1978, the Central Intelligence Agency (CIA) has been directed to "collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking."



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F. Internal Revenue Service

The overall mission of the Internal Revenue Service is to encourage and achieve the highest degree of voluntary compliance with the tax laws and regulations. The Intelligence mission is to further the total Service objective by identifying the existence of areas of willful non-compliance by taxpayers, enforcing the statutory sanctions applicable to income, estate, gift, employment and certain excise taxes through the investigation of cases of possible criminal violations of such laws and the recommendation (when warranted) of prosecution and/or assertion of the civil fraud penalty to the tax in order to create the broadest possible impact for compliance.

On July 27, 1976, the Commissioner of Internal Revenue and the Administrator of the Drug Enforcement Administration (DEA) signed a Memorandum of Understanding in order to carry out a program aimed at high-level drug trafficking, and to promote effective enforcement against those individuals who are violating these laws with impunity. The agreement provides that IRS and DEA will exchange information to the extent consistent with statutory provisions. The High-Level Drug Leaders Tax Enforcement Project has been initiated to give emphasis to appropriate civil examinations and criminal investigations of high-level drug leaders and financiers as are merited under established Internal Revenue Service standards.

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G. Federal Bureau of Investigation

The primary mission of the Federal Bureau of Investigation (FBI) is to conduct investigations which will have a significant impact on criminal activity in the United States, to investigate civil matters in which the U.S. Government has an interest and to provide information to the Executive Branch relating to national security.

The FBI, therefore, has a supportive role to the U.S. Government's drug enforcement effort. This support is provided in three major ways: (1) investigative support, e.g., selected joint operations and DEA fugitive locations; (2) debriefing of FBI informants and dissemination of informant provided drug intelligence information to appropriate Federal, State and local agencies; and (3) making available to the appropriate Federal, State and local agencies certain FBI centralized services, e.g., fingerprint identification, arrest records, laboratory services and access to the National Crime Information Center on-line files.

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III. DISCUSSION

SECTION A

A. Constraints on the Acquisition, Dissemination, and Exploitation of Available Foreign and Domestic Narcotics Intelligence.

Are the designated executive branch departments and agencies obtaining and exploiting all available foreign and domestic narcotics intelligence?

What constraints prevent the Federal agencies and departments from upgrading the quality and quantity of narcotics intelligence?

What are the constraints placed upon the dissemination of narcotics intelligence to the customer agencies?

These questions are examined under the following headings:

1. Major Traffickers and Their Distribution Patterns
2. Interdiction at the U.S. Borders and Ports of Entry
3. Financial Intelligence
4. Information on the Commitment of Foreign Governments and Public Institutions to Control Illicit Production and Trafficking
5. Assessment of the Worldwide Illicit Opium Poppy Crop

The U.S. Government is not currently collecting, disseminating, producing or exploiting all available narcotics intelligence due to certain statutory, policy, resource and administrative constraints imposed upon the Federal agencies and departments. During the past five years, some progress has been made toward improving intelligence support to the drug control effort. Much, however, still remains to be done. The purpose of this review is to identify the problem areas and propose the necessary measures to improve the flow and exchange of narcotics intelligence among the executive branch agencies of the Federal Government.

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1. Major Traffickers and Their Distribution Patterns

Narcotics intelligence on the major narcotics traffickers and their distribution patterns brings about the closest interaction between the law enforcement and intelligence roles. As might be expected, this close interaction has raised some unresolved, complex, legal and policy questions, particularly with regard to the use of foreign intelligence for law enforcement and prosecutions. Specifically, there are two areas which have been adversely affected by these unresolved questions. These, in turn, have ultimately restricted the Federal narcotics intelligence collection effort directed against the major narcotics traffickers and their distribution patterns. The two areas are:

- a. the collection of operational and tactical intelligence on U.S. and foreign nationals involved in the international narcotics traffic,
- b. the dissemination and exploitation of this operational and tactical narcotics intelligence by the foreign intelligence community and the Federal law enforcement agencies.

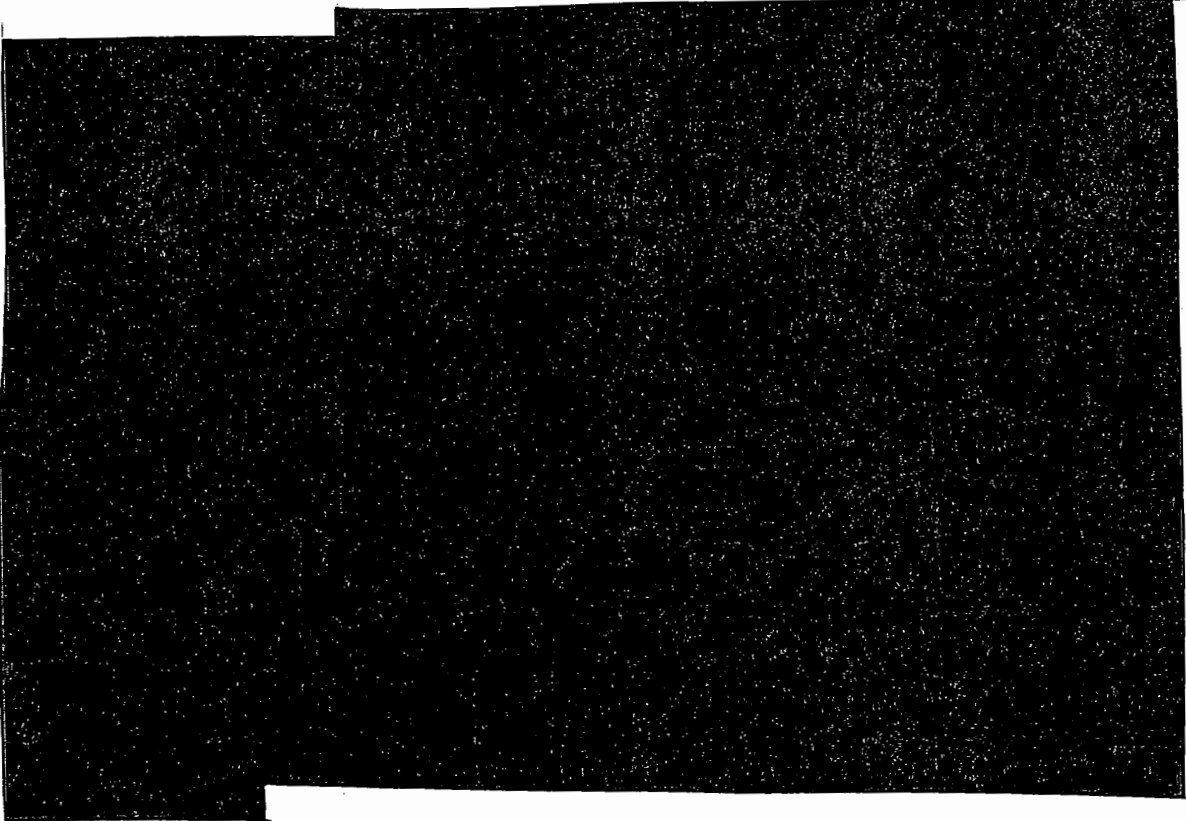
(1) The Collection of Operational and Tactical Intelligence on U.S. and Foreign Nationals Involved in the International Narcotics Traffic.

The subject of collecting information on foreign nationals involved in the international narcotics traffic has raised some differences of opinion as to (1) the various collection roles of each agency or department involved in the drug control effort and (2) the collection restrictions imposed upon the Federal agencies and departments by Executive Order 11905 and the accompanying procedures. By virtue of existing statutes, the recent Executive Order 12036 and procedures promulgated by the Attorney General pursuant to Executive Order 11905, the U.S. foreign intelligence agencies are prohibited from collecting narcotics information on U.S. citizens and resident aliens at home or abroad.

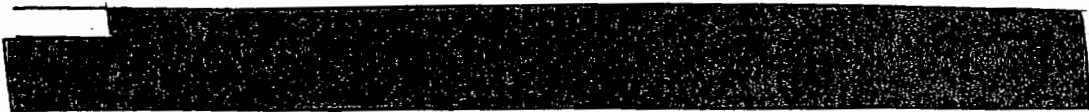
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(a) Interpretations of the Various Col-
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The lack of clear and specific definitions of collection responsibility as described above has fostered similar misinterpretations which, in turn, have inhibited the Federal intelligence collection effort.




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(b) Executive Order 11905 and Subsequent Interpretations

Due to the restrictions imposed by Executive Order 11905 and subsequent interpretations, the U.S. Government is not fully exploiting the narcotics intelligence derived from foreign sensitive source operations.



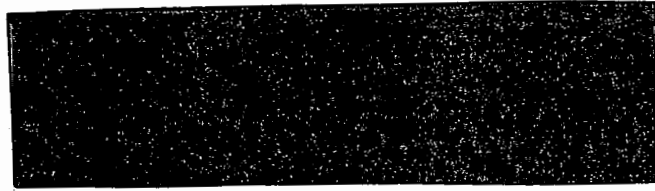
The law enforcement agencies maintained that the legal and policy restraints imposed by Executive Order 11905 and subsequent interpretations "created a veritable wall between the intelligence and enforcement agencies of the Federal Government." Specifically, the interpretation of Section 5, subparagraph (e) of the Executive Order which describes the kind of assistance the foreign intelligence community can provide to law enforcement authorities restricted the free exchange of information between these agencies and caused the U.S. foreign intelligence agencies to place self-imposed restrictions on their collection of certain types of information.

Two basic concerns related to Executive Order 11905 were raised:

1. Members of the U.S. intelligence community, in the course of their foreign intelligence collection activities, acquire information related to narcotics. They are reluctant, however, to provide this information to any law enforcement agency for fear that the source of the information will have to be revealed in the event of a prosecution or subsequent civil suit filed by the criminal defendant alleging violation of his civil rights.
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2. The Drug Enforcement Administration is reluctant to use information obtained from certain sensitive foreign intelligence sources and methods. DEA's concern stems from the possible "tainting" and subsequent dismissal of an intended prosecution through the disclosure of this information and the source which could be obtained under a discovery motion. Furthermore, DEA believes that any sensitive source operations related to a foreign trafficker by the U.S. foreign intelligence agencies, with or without DEA's knowledge, may damage, perhaps irreparably, ongoing narcotics investigations and prevent the law enforcement agencies from bringing the traffickers to justice.

The first issue which pertains to the necessary protection of sensitive sources of information during the judicial process was not adequately addressed in the Executive Order 11905 or in the subsequent implementing guidelines. The new procedures to be promulgated by the Department of Justice pursuant to Executive Order 12036 are expected to clarify this issue. CIA's statutory obligation to protect its intelligence sources and methods is not always compatible with the judicial requirements placed on U.S. prosecutors to disclose certain types of evidence. Criminal prosecution in the United States, for example, places ethical, statutory and case law requirements on the prosecution to disclose evidence. In certain instances, if this evidence were made public, the identity or security of the source and/or the existence of a sensitive collection method by which the information was obtained in a foreign country could be revealed. In the event of a narcotics prosecution which was based initially on information acquired through sensitive sources by a U.S. foreign intelligence agency, the case may have to be dismissed in order not to divulge the source of this information.

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DEA's reluctance to use sensitive source information for fear of "tainting the evidence," as described in 2 above, could be allayed through specific guidelines and procedures [REDACTED]

[REDACTED] DEA's concern, however, that any sensitive source operations by the U.S. foreign intelligence agencies may damage ongoing narcotics investigations, introduced another dimension to this problem of sensitive source information. DEA has stated that "the U.S. prosecution of foreign nationals involved in the narcotics traffic provides an invaluable tool for disrupting the traffic. Some of the most significant violators ever prosecuted were foreign nationals extradited or expelled to the United States and convicted of conspiracy. Once a case is dismissed, however, for tainted evidence based on unlawful sensitive source information, the trafficker could be potentially immunized forever from prosecution in the U.S." [REDACTED]

[REDACTED] At the present time, the Office of Legal Counsel of the Department of Justice is reviewing the implementing guidelines for the U.S. foreign intelligence agencies to take into account these problems which were not addressed in the original guidelines to Executive Order 11905. [REDACTED]

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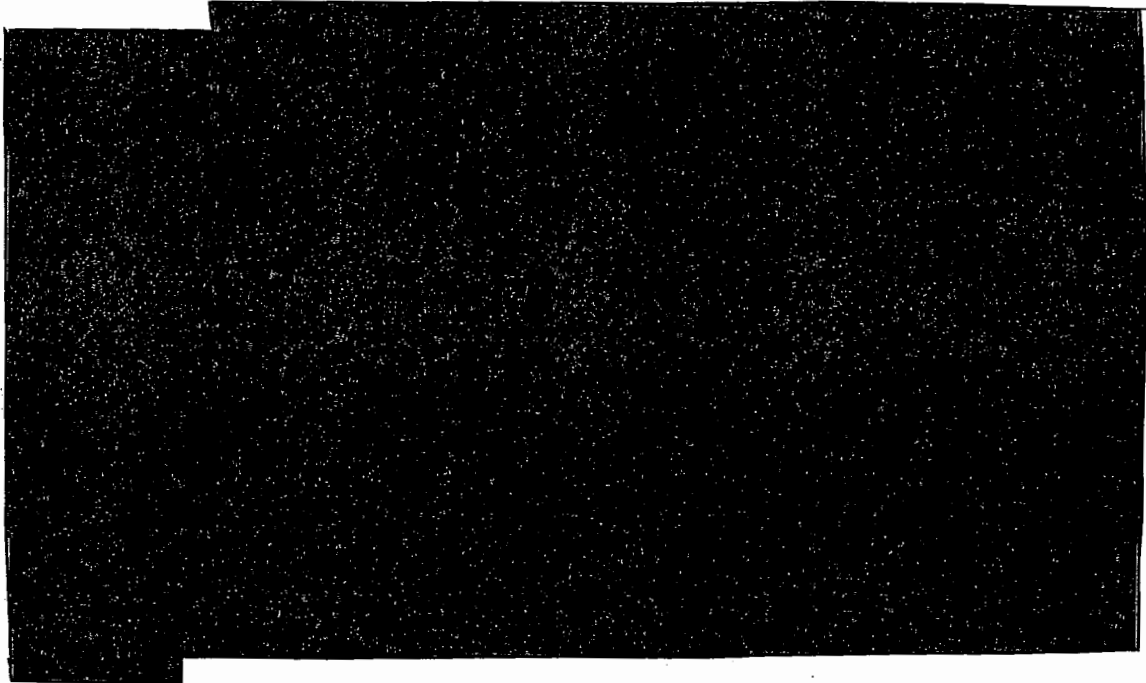
Unless more flexible guidelines and procedures for Executive Order 12036 are issued for the collection and use of sensitive source information, the U.S. foreign intelligence agencies will continue to restrict their collection and dissemination of such information on foreign nationals involved in narcotics activities. Law enforcement agencies will continue to restrict the use of this information, thus hindering our access to information on the major traffickers and their distribution patterns. Without this access, the Federal agencies can never fully realize the potential of this invaluable source of information.

2. The Dissemination and Exchange of Operational and Tactical Intelligence on U.S. and Foreign Nationals Involved in the International Narcotics Traffic.

This section will discuss the specific inter-agency differences in outlook over narcotics intelligence storage, dissemination and retrieval systems since these systems are essential to fulfilling one of the primary objectives of the Federal Strategy - the immobilization of the key traffickers and their organizations. This issue also came to the attention of the House Select Committee on Narcotics Abuse and Control, which stated in its Interim Report, published in February 1977, that "there is a lack of information sharing among the Federal agencies involved in narcotics control."

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To facilitate the exchange of information between DEA and Customs, a special liaison office was created within DEA's Office of Intelligence in early July 1975, to ensure that Customs is provided with any and all DEA-acquired and/or finished intelligence which might be of value to the border and port interdiction effort. Additionally, DEA and Customs have now agreed that increased Customs participation in EPIC should serve to establish a climate for better cooperation and increased DEA responsiveness to Customs narcotics interdiction intelligence requirements. The U.S. Coast Guard and INS already provide narcotics intelligence support to narcotics intelligence consumers through EPIC. In turn both of these agencies receive border related information which assists them respectively in the enforcement of the immigration, customs and navigation laws.

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In addition to the exchange of narcotics information with Customs through the Special Liaison Office, DEA has been instrumental in the establishment of the Field Intelligence Exchange Groups (FIEG's) on an experimental basis in Chicago and Miami. In these cities, representatives from I&NS, FBI, Customs, DEA, IRS and State and local intelligence and police units are brought together and briefed by DEA on selected cases which involve the major trafficking organizations. After this briefing, the other Federal and State/local agencies are asked to assist in completing the gaps in the information.

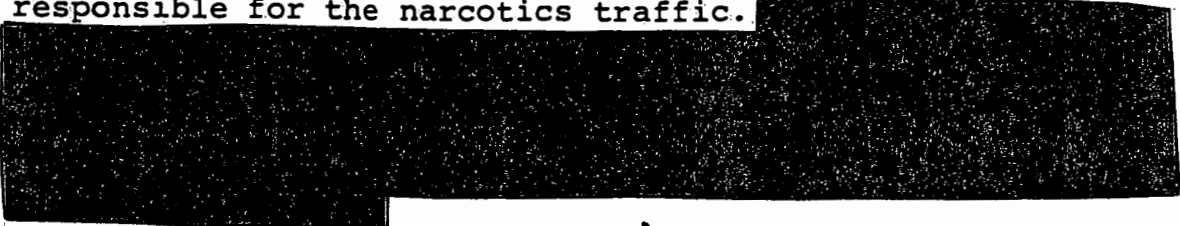
The issue of information dissemination was frequently raised during the 1976 hearings of the House Select Committee on Narcotics Abuse and Control. To illustrate this problem, the Committee cited the FBI/DEA relationship and contended that "when the material cited (in the testimony) is closely analyzed ... one finds that the FBI has in fact given only 'paper' support to DEA in the form of directives and memorandum." (p. 18) The FBI, however, notes that,

"it has issued to field special-agents-in-charge requirements for debriefing of FBI informants for drug related intelligence information. The FBI has established, at Headquarters, a National Narcotics Coordinator to coordinate information flow between the FBI field offices and DEA at both the field and Headquarters levels. Since August 15, 1972, each of the FBI's 59 field offices has had a special agent designated as the narcotics coordinator who interacts with DEA on a formal basis. Moreover, coordination at the operations level is achieved through both formal and informal working contact between special agents of the FBI and DEA. Additionally, the FBI is involved with the Chicago and Miami Field Intelligence Exchange Groups (FIEG's) which coordinate Federal investigative efforts directed against major narcotics traffickers."

On the international scene, the coordination of information on the major traffickers and their organizations between the law enforcement agencies and the U.S. foreign intelligence community has not been systematic.

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Experience has shown that the major traffickers do not limit themselves to any one particular drug or geographic area, nor do they limit themselves to any one U.S. agency's area of jurisdiction. Consequently, the need for interagency coordination in the international sphere is essential to the proper selection and targetting of the key individuals responsible for the narcotics traffic.




2. Interdiction at the U.S. Borders and Ports of Entry

Narcotics intelligence collected to support the interdiction effort at the U.S. borders and ports of entry is obtained from a variety of sources. Access to at least three of these sources of information has been limited either by executive order, administrative decision or policy interpretations.

a. Official Sources of Narcotics Interdiction Intelligence

The U.S. Customs Service believes that narcotics intelligence consumers have need of interdiction intelligence which is available from foreign customs services and communities



This intelligence, primarily of a tactical and perishable nature, would significantly bolster the drug interdiction and removal successes at the borders and ports of entry. With the enactment of Reorganization Plan No. 2, however, the U.S. Customs Service was prohibited from actively collecting foreign narcotics intelligence in support of domestic smuggling investigations. A subsequent Memorandum of Understanding in December 1975 between Customs and DEA allowed Customs to "continue to maintain liaison and gather information from foreign customs services on all smuggling." This agreement was never put into practice because of the failure of Customs and DEA to reach an accord on implementing guidelines and procedures. Customs maintains that its narcotics participation has been "limited to a passive liaison activity." At the same time, and even within its current limited charter, the U.S. Customs Service has not made a sufficient effort to gather narcotics smuggling information from foreign customs services. Recently DEA and Customs have been meeting to explore methods of expanding Customs' participation in DEA operations.

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In addition to being restrained from collecting narcotics intelligence related to interdiction from foreign customs services and communities, the Customs Service asserts that it is currently not receiving adequate interdiction related intelligence from those Federal agencies and departments responsible for its collection and dissemination. According to the Customs Service, "DEA has a tendency to focus on case-related intelligence for eventual prosecution in the U.S. and neglects intelligence related to interdiction. The Drug Enforcement Administration has always and continues to consider interdiction at the border to be an unimportant adjunct to their overall supply reduction mission."

DEA states that the case-related intelligence is not exclusively used for U.S. prosecution but for foreign narcotics prosecutions as well. Additionally, DEA reiterated that interdiction at the U.S. borders is only one part of the narcotics distribution network. With a far wider jurisdictional responsibility which transcends the borders, DEA's priorities place the border interdiction program as relatively less important than developing drug conspiracy cases. Nevertheless, DEA has emphasized to both domestic and foreign regions the importance of drug movement intelligence. This emphasis included a request to establish special intelligence collection networks for drug movement.

Additionally, DEA has supported the interdiction requirements of Customs through routine entry of information into lookout systems, EPIC, Headquarters participation of Customs personnel in special projects, permanent assignment of Customs personnel to DEA field offices, distribution of finished routine and special intelligence products to Customs, and joint interdiction operations based on DEA initiated cases. DEA notes that "in cooperation with foreign enforcement agencies, including customs, DEA does coordinate interdiction activities in source and transshipment countries whenever the narcotics appear to be destined for delivery in the United States."

In response to Customs' desire to resume its narcotics intelligence collection activities overseas, DEA emphasized that "foreign (law enforcement agencies) must have one U.S. agency with which to deal; informants must have one U.S. agency controlling them; and domestic enforcement agencies must have one U.S. agency with which to coordinate their narcotics-related activities."

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The lack of interdiction intelligence disseminated to Customs is not unique to DEA for the Customs Service believes that the U.S. foreign intelligence agencies are also not disseminating the necessary intelligence needed for interdiction which could be used without jeopardizing sensitive sources and methods. This issue is further discussed under part c. of this section entitled "Sensitive Sources and Methods."

b. Post-Arrest Debriefings

Coupled with this inherent dependence upon other agencies and departments for narcotics intelligence related to interdiction, Customs has stated that the limitations of Reorganization Plan No. 2 have also restricted the Service from developing narcotics-related information obtained in the course of a routine Customs search, seizure and/or arrest. Oftentimes, border agents will obtain specific narcotics information during the smuggling violation. As intended in Reorganization Plan No. 2, Customs immediately releases this raw information to DEA without developing the information or evaluating its significance. Unless the information is in some way related to active DEA conspiracy cases or to the investigation of major traffickers, DEA, in accordance with U.S. Attorney guidelines, will forego the active pursuit of this information to its conclusion. Customs believes that this failure to pursue such information deprives the Service of actionable interdiction information.

In the case of a narcotics seizure and arrest at the border, Customs can debrief or interrogate a suspect only if DEA declines to do so in accordance with U.S. Attorney guidelines. The cases which are declined by DEA frequently involve relatively small quantities of drugs of lesser priority such as marihuana. These cases are not routinely pursued by DEA to their conclusions because of DEA and prosecutorial manpower limitations, drug priorities or policy decisions to concentrate on major traffickers and not couriers. Customs maintains that timely debriefing information is vital to stopping the flow of narcotics across the U.S. borders. As in the debriefing of all violators, it is essential that narcotics traffickers are interviewed immediately after the arrest to enable the investigators to take full advantage of the fact

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that the violator may have been unnerved by his apprehension. Any delay in this interview can result in the manufacture of a "pat story" by the person involved. According to Customs, "the timing of these debriefings has been so crucial in past investigative activities that Customs eagerly sought to interview those violators declined by DEA in the hopes of making a contribution to the overall narcotics effort." In sum, Customs claims that the immediate transfer of the defendant to DEA, and Customs' inability to debrief the defendant have prevented border agents from obtaining perishable information related to the interdiction efforts, e.g., information describing couriers, smuggling routes, methods and concealment devices.

c. Sensitive Sources and Methods

The intelligence community has a high potential for providing timely and accurate information regarding narcotics smuggling. For example, Customs believes that the foreign intelligence agencies can provide the following kinds of information without jeopardizing the intelligence source or method: general background data on smuggling personalities, modus operandi and conveyances, prior notification of actual planned smuggling attempts, the time, place and other related data to effect a successful interdiction. Customs notes that, as long as routine border search and seizure procedures are followed, Customs can use the arrest or seizure, and not the initial intelligence, as the basis for an investigation and/or subsequent prosecution, thus diminishing the risk of source jeopardy and at a minimum preventing the entry of narcotics into the United States.

Many of the restrictions on the use of information derived from sensitive sources and methods previously discussed in the section entitled "Major Traffickers and Their Distribution Patterns" legitimately pertain to the collection and dissemination of intelligence related to the interdiction effort. It is Customs' position, however, that the use of information obtained from sensitive sources and methods poses less of a legal problem than assumed by CIA and DEA. This issue will have to be resolved in further discussions with the Department of Justice.

3. Financial Intelligence

Financial intelligence to immobilize the narcotics trafficker and his organization remains one of the Federal Government's most significant untapped

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resources. There are basically three areas of activity which could be pursued to deprive the narcotics trafficker of his illegal financial profits: 1) a strengthening of DEA/IRS cooperation in the Narcotics Trafficker Tax Program, 2) the enforcement of the Financial Recordkeeping and Currency and Foreign Transaction Reporting Act of 1970 (the Bank Secrecy Act), and the Racketeer Influenced and Corrupt Organization Statute (RICO), and 3) the initiation of financial treaties and agreements with those countries internationally recognized as "tax havens" for the profits of organized crime and international smuggling organizations.

a. DEA/IRS Cooperation in the Narcotics Trafficker Tax Program

The Internal Revenue Service gives high priority to civil examinations and criminal investigations of high-level drug leaders and financiers. IRS policy in this area centers around the IRS/DEA Memorandum of Understanding of August 1976, which has been implemented through various documents and further incorporated into an IRS Manual Supplement published and distributed to all field personnel during July 1977.

Since 1971, IRS efforts have leaned heavily on the use of such assessments to satisfy tax liabilities. The IRS has the authority to terminate tax years and to make jeopardy assessments which are ways of taking the profit out of narcotics transactions and assisting in the immobilization and dismantling of narcotics trafficking networks. In the past, some of the tax computations supporting jeopardy and termination assessments were, in fact, questioned because they were based upon data too limited to make calculations which would stand up to review. Today, these actions are used sparingly and only to protect the revenue when collection is in doubt.

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The proper determination of tax was and is a significant problem for the IRS, when, for example, there is only a single narcotics transaction and one sum of money related to it. The Supreme Court in the Laing case held that a suspected narcotics trafficker has the right to petition the Tax Court for a redetermination of liability. Furthermore, the Tax Reform Act of 1976 established a statutory right to administrative and judicial reviews.

By the Tax Reform Act of 1976, the Internal Revenue Code was amended to prohibit the disclosure of tax return or taxpayer return information provided by the taxpayer or his representative, except when a court order is obtained. As a result of this mandate, IRS cannot disclose to a law enforcement agency such as DEA, without a court order, information on cases involving drug violations uncovered through information provided by the taxpayer or the taxpayer's representative. These limitations tend to make the exchange agreement with DEA, on the surface, a one-way street. However, one provision of the Act may prove to be of assistance to law enforcement authorities. According to the Act, IRS must now segregate its investigative files into two broad categories: 1) information provided by or on behalf of, the taxpayer, and 2) information obtained independently by IRS. In general, DEA investigators working on a specific trafficker only require information in the second category. This information is now being obtained through interagency requests which delineate the law enforcement agency's investigative and/or prosecutive need.

Under the provisions of the IRS Code, IRS can make known to a law enforcement agency the fact that IRS has specific knowledge of an individual's narcotics trafficking activity. The disclosure restrictions of the Tax Reform Act, however, are so broad that, should a trafficker admit -- in connection with providing tax information to IRS -- that he is indeed a trafficker, IRS cannot legally make this fact known to a law enforcement agency.

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The administrative summons provisions under the Tax Reform Act will also impose certain constraints upon the Joint DEA/IRS Narcotics Trafficker Tax Program. At present, IRS must notify a taxpayer or a non-taxpayer that it has served an administrative summons for his records on a financial institution. The taxpayer to whom the summoned records pertain must receive notice from the IRS within three days of the time the summons is served. The taxpayer then has the right to stay compliance by notifying the financial institution within 14 days and requesting them not to comply. Without intervention by the taxpayer, the financial institution can honor the IRS summons. Instructions are provided to the taxpayer to explain his or her rights and describe what action may be taken to prevent compliance with the summons by a third party recordkeeper. Administrative and judicial means are available for his intervention. If the taxpayer does intervene, IRS must then seek enforcement of the summons through court proceedings. These special procedures, in addition to delaying the progress of the criminal investigation, will result in increased costs to the Government.

The third and final restriction imposed upon the exchange of financial intelligence by the Tax Reform Act of 1976 involves information concerning foreign bank accounts used by narcotics traffickers. Again, the information falls under the broad IRS anti-disclosure provisions and cannot be released to another Federal agency. A question regarding the use of foreign bank accounts or trusts is now included on the basic Tax Return Form 1040 sent annually to all taxpayers. However, once the information is submitted to IRS, it becomes taxpayer-provided information. As noted in the disclosure section, IRS cannot make this information known to another Federal agency without a court order, even if the taxpayer is targeted as a major violator under the Narcotics Trafficker Tax Program.

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Thus, the Tax Reform Act of 1976 has placed certain restrictions on the ability of the Internal Revenue Service to release information to other agencies. IRS recognizes that "the disclosure limitations imposed by the Tax Reform Act of 1976 make DEA/IRS cooperative efforts more difficult but not impossible. There is a latitude within the disclosure statutes for IRS to provide a substantial amount of investigative information for nontax purposes to other Federal agencies, provided that certain tests are met and certain procedures are followed." Specific procedures have been developed with the assistance of the Department of Justice to make the disclosure law as workable as possible. Much progress has been made in the area of financial information exchange between DEA and IRS. These accomplishments are further described on pages A-6 and A-11 of the appendix. To further advance this cooperation, the President, in his message to Congress on August 2, 1977, stated that he would consider requesting the amendment of certain provisions of the Tax Reform Act, if those provisions are found to impede unnecessarily investigations of narcotics traffickers and if they can be changed without infringing on the privacy of U.S. citizens.

a. Enforcement of the Financial Record-keeping and Currency and Foreign Transactions Reporting Act of 1970 and the RICO Statute

DEA/IRS cooperation in the area of collecting financial intelligence and enforcing certain financial statutes represents one of several means to immobilize the narcotics trafficker and his organization. Customs maintains that the enforcement of two additional statutes could significantly contribute to the frustration and immobilization of these criminal organizations. The Financial Recordkeeping and Currency and Foreign Transaction Reporting Act of 1970, popularly known as the Bank Secrecy Act, requires that all persons who transport, mail, ship or caused to be transported, mailed or shipped from the United States to a foreign country, or into the United States from any place outside the United States, currency or certain monetary instruments in amounts in excess of \$5,000, on any one occasion, must report such transactions to Customs. The Customs

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Service has the sole responsibility for enforcing these reporting requirements (31 USC 1101) and for conducting investigations regarding the failure to file the required report (Customs Form 4790). The unreported transportation of currency or monetary instruments is a separate and distinct violation of Federal law whereby both criminal and civil penalties can be levied for failure to file the required report. According to Customs, "one of the effective and efficient means of disrupting the narcotics traffic is to seize the high value concentrated narcotics at the border and/or to intercept the money which is being taken out of the U.S. to be used as payment for the narcotics."

Another report (IRS Form 4789) which is required under the Bank Secrecy Act provides valuable intelligence on domestic currency transactions in excess of \$10,000. The combined use of these two reports (Form 4789 and 4790) could significantly enhance the Federal government's understanding of the domestic and international movement of currency or monetary instruments derived from narcotics trafficking. As stated by Customs, "The Financial Recordkeeping and Currency and Foreign Transactions Reporting Act of 1970, therefore, has tremendous potential for immobilizing the drug traffickers by destroying the flow of necessary working capital used by the trafficking organizations."

Financial intelligence collected to prosecute a narcotics trafficker under The Racketeer Influenced and Corrupt Organizations Statute (18 USC 1961-1964), commonly referred to as the "RICO" statute, provides the Federal Government with another method of attacking the financial operations of the professional and organized criminal. The purpose of this statute is to outlaw the infiltration and illegal acquisition of legitimate economic enterprises to further organized criminal activity and the attendant disruption of the national economy. It specifically provides for the forfeiture of assets acquired in the pursuit of this criminal activity. The law, though broad and varied in its application to meet the variety of crimes committed by organized criminal organizations, does not add substantially to the investigative burden, but rather complements a case and improves the remedies available.

c. Financial Mutual Assistance Agreements

The Department of State exercises the authority to pursue the third and final source of financial intelligence which has not been significantly exploited. It was the consensus of the Team that an effort should be made by the State Department to negotiate mutual assistance agreements whereby U.S. representatives would be able to gain access to the records of financial institutions in such countries as Switzerland, Grand Cayman Island and the Bahamas which are internationally recognized as "tax havens" for the finances of organized crime and international smuggling organizations. Selective access to these records in these foreign countries could provide the necessary financial intelligence to trace the flow of funds used by the various narcotics trafficking organizations. Ultimately, this financial intelligence could provide the basis for international judicial action to freeze the assets of the major traffickers.

The Mutual Assistance Treaty with Switzerland, effective January 1, 1977, provides for broad cooperation between the U.S. and Switzerland in criminal matters which include the exchange of financial information, and can serve as a model for similar agreements with other nations. One of the principal features of this type of treaty is that cooperation is to be provided at the investigative stages of a case as well as during the judicial phases. The treaty specifically provides for assistance in locating witnesses, obtaining statements and testimony of witnesses, and the production and authentication of business records in matters relating to treaty recognized offenses.

Switzerland is clearly not the only foreign haven for narcotics money. Experience has shown that the major narcotics traffickers often avail themselves of financial institutions not too far removed from the established trafficking routes. Thus, such banking centers as the Bahamas, the Caymans, Barbados, Trinidad and Tobago, the Netherlands Antilles and Bermuda frequently surface in the major narcotics investigations.

During the 1976 hearings, the House Select Committee on Narcotics Abuse and Control concluded that "financial treaties with the major tax haven countries must be a first priority of our international narcotics control program and the State Department must take the

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lead in facilitating their passage." (p.42) Furthermore, the Committee recommended that "the State Department target critical countries and press actively for the negotiation of mutual assistance agreements for the exchange of financial information ... and strengthened tax treaties." (p.62) With the assistance of the Internal Revenue Service, the Department of State is currently attempting to negotiate cooperative exchange agreements with Mexico and the Bahamas.

Thus, the area of financial intelligence appears to be a significant untapped resource in pursuing narcotics traffickers and their organizations. Through the three courses of action described in this section, the Federal Government can use financial intelligence to reduce or eliminate the exorbitant financial profits derived from the illegal narcotics traffic and effectively deter the traffickers whose sole incentive is financial.

4. Commitments of Foreign Governments and Public Institutions to Control Illicit Production and Trafficking

The Department of State is the negotiating agency and foreign policy arm of the U.S. Government for eliciting cooperation from other governments involved in international narcotics control. The Secretary of State has the leadership role in formulating and coordinating national policies in all matters pertaining to international narcotics control, with the ultimate objective of curtailing the illegal flow of narcotics and dangerous drugs from foreign sources into the United States. This responsibility inherently entails timely and accurate reporting on a wide range of subjects which includes but is not limited to the following: 1) the political factors which affect the ability and resolve of foreign governments to conduct active control programs; 2) the economic factors which may affect crop eradication and substitution programs; 3) the sociological ramifications of the narcotics control program which would include local drug abuse indicators and statistics and 4) the estimated production of illicit narcotics within each country. In his April 27, 1976, message to Congress on drug abuse, former President Ford said:

"No matter how hard we fight the problem of drug abuse at home, we cannot make really significant progress without the continued cooperation of foreign governments. This is because

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the most dangerous narcotics are produced in foreign countries. Thus, our capability to deal with supplies of drugs available in the United States depends largely on the interest and capability of foreign governments in controlling the production and shipment of illicit drugs."

The CCPC study stated that U.S. Missions abroad have access to much valuable strategic narcotics information through their Foreign Service Officers, USAID personnel, USIS and Agricultural Attaches. There has been noticeable improvement in U.S. Mission reporting during the past year, but, as the CCPC concluded, "not all overseas posts are complying with standard reporting requirements."

In September 1976, the House Select Committee on Narcotics Abuse and Control stated that it fully realized that "to motivate a foreign country to deal with narcotics control often takes a number of years. Furthermore, it is understood that each country must be dealt with on a unique basis so that the U.S. program takes into account the local political establishment, the local country problem and its own view of the seriousness of the problem both from an internal and international perspective." This statement illustrates the importance of comprehensive and timely reporting on the capability, commitment and resolve of foreign governments to control illicit narcotics production, for without this information the Federal Government will be unable to formulate a national narcotics control strategy.

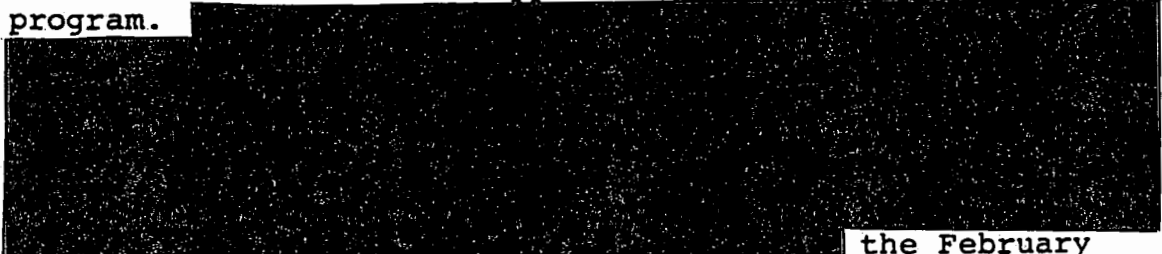
5. Assessment of the Worldwide Illicit Opium Poppy Crop

Over the past few years, experience in the development of a comprehensive international narcotics control strategy has demonstrated the need for a reliable system to forecast the size and location of the licit

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and illicit opium poppy crops throughout the world as well as the need for advanced technology to produce tactical information to support an active eradication program.



the February 1977 Interim Report of the House Select Committee on Narcotics Abuse and Control stated that "the highest incidence of success in any international supply reduction strategy is to interdict or destroy the illicit substance at its sources. The Committee went on to recommend that "a new Federal Strategy involve an all-out American effort to induce foreign countries to eradicate all opium poppy growing areas except those which are determined by international agreement to be needed for medical purposes." If the Federal Government is to embark on such a course, an accurate assessment of the worldwide illicit opium poppy crop would have to be made on an annual basis.

In 1974, the Multispectral Opium Poppy Sensor (MOPS) System was originally deployed to Mexico to support eradication efforts conducted by ground personnel who beat the poppies with flails. The transfer of eradication personnel from field to field was accomplished by helicopter airlift. Due to the extremely slow and laborious eradication process, MOPS was able to find more targets than could be handled by the eradication forces. During its introductory and training phase, however, MOPS did provide valuable intelligence on the extent and techniques of illicit opium poppy cultivation.

The initial success of the MOPS program (1974-75) encouraged the Federal agencies involved in the narcotics control effort to consider updating the MOPS system to include a tactical collection system to cover a wider area in less time and a strategic collection system to assess the worldwide illicit poppy crop. With the delivery of the herbicide-spray helicopters, the eradication program in Mexico began to accelerate and it soon became apparent that MOPS would be unable to cover the area and turn around its product in a fashion suitable for eradication.

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In 1976, the Office of Management and Budget asked the Science and Technology personnel of the various concerned agencies [REDACTED] to undertake a study to determine what the scientific field could contribute to this tactical collection system as well as to a strategic collection system. This S&T subcommittee of the Southwest Task Force agreed that a strategic system to handle the synoptic overview requirements must be able to collect crop data over a desired geographic area; reliably detect and identify opium poppy crops; provide general locations of the poppy fields; provide information on total crop size and expected yield; and estimate the harvest dates.

According to this S&T subcommittee, the tactical collection program must be capable of satisfying the following requirements: collect crop data over a specified geographical area; reliably detect and identify narcotics crops in sufficient time to permit eradication; provide accurate location and/or navigational information to enable eradication personnel to return to the suspected field.

In late 1976, the Executive Director of the Cabinet Committee on International Narcotics Control (CCINC), and the Federal Drug Management Office, OMB, requested that a group be formed to seek the best method for developing these tactical and strategic systems. In August 1977, the Interagency Crop Detection Technology Review Committee, [REDACTED]

[REDACTED] completed a study on advanced illicit crop detection and location systems which would provide two levels of information:

- a. Tactical information to support an active eradication program, and
- b. Strategic information to support longer term worldwide narcotics intelligence requirements.

With regard to tactical information, the Committee discussed the following five options from both technical and cost perspectives:

- a. The Multispectral Opium Poppy Sensor (MOPS),
- [REDACTED]

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b. Visual Reconnaissance (VISREC), using small fixed wing aircraft to gather targetting information.

[REDACTED]

[REDACTED]

e. Unclassified Satellite i.e., LANDSATs, low orbiting earth resource technology satellites designed to gather multispectral data on large area targets covering in excess of several acres.

The Committee also discussed the following three options for strategic information:

a. LANDSAT.

b. Summed Output of Tactical System. This would use the total output of several tactical systems discussed above, i.e., [REDACTED] VISREC, etc.

c. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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SECTION B

B. EFFECTS OF NARCOTICS INTELLIGENCE COLLECTION
REQUIREMENTS ON THE PRODUCTION OF INTELLIGENCE

1. Collectors

a. What are your agency's or department's specific narcotics intelligence collection requirements?

b. How does your agency or department formulate these requirements and coordinate them with the consumer? (e.g., analytical components, enforcement agencies, State Department, etc.)

c. What methods or mechanisms does your agency or department use to evaluate the collected information?

d. What are the constraints that inhibit the maximum fulfillment of these collection requirements?

e. Is there a procedure to assure that all collected information is made available to potential consumers? Is any collected information consciously withheld from potential consumers? If so, state reasons why.

2. Consumers

a. Do the Key Intelligence Questions on Narcotics contained in Appendix II of the CCPC Study and the DEA Source Debriefing Guide adequately address your foreign and domestic narcotics intelligence collection needs? If not, what additions or modifications should be made?

b. To what extent do the collectors meet your needs for information? What are the principal gaps in information needed for analysis, enforcement, diplomatic action and policy formulation?

c. Does your agency or department have a system for evaluating reports from the collectors and providing them with the feedback needed to improve the quality of reporting?

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Discussion

The formulation of collection requirements is an essential part of the intelligence process which is the traditional intelligence community terminology for the system by which intelligence needs of consumers are levied on the field for collection. In the case of narcotics intelligence, these requirements must meet the needs of a variety of Executive Branch consumers whose responsibilities range from the development of a Federal drug strategy to the immobilization of specific drug traffickers. Without the systematic formulation, coordination, tasking, dissemination, updating and evaluation of narcotics intelligence collection requirements, the agencies involved in carrying out the Federal strategy will be operating in relative isolation and on a target of opportunity basis.

The narcotics intelligence collection requirements process, to date, has not satisfied the needs of the Executive Branch, and therefore, should be significantly improved to achieve an effective narcotics control program.

It is important to note in this discussion that the domestic law enforcement agencies and the foreign intelligence community have different perceptions of what is entailed in "narcotics intelligence collection." The difference in perception stems, in part, from the fact that in law enforcement, the collectors and the consumers are usually identical while in the foreign intelligence agencies these roles are separate. For the purpose of this review, the Team has proceeded under the following distinguishing features of narcotics intelligence collection:

1. Narcotics intelligence is collected to provide leads which could assist in determining whether an interdiction should be effected and/or whether an investigation leading towards prosecution should be undertaken.
2. Narcotics intelligence provides a broad understanding of narcotics trafficking networks and operations.
3. Narcotics intelligence is collected to satisfy general policy requirements and to anticipate future events affecting narcotics control.

As the law enforcement agencies move increasingly into the area of major conspiracy investigations, the lines of demarcation between "narcotics investigation" and "narcotics intelligence collection" are less easily defined. Some confusion arises from the fact that while the ultimate end

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of narcotics intelligence collection may differ from the ultimate end of a narcotics investigation, the means or methods to achieve these ends are very similar and cover a wide spectrum of activity depending upon human and technical resources.

In addressing the questions posed to the Federal agencies and departments at the beginning of Section B, the following areas warrant review and reinforcement:

1. Identification of Narcotics Intelligence Collection Requirements
2. Formulation, Coordination, Tasking and Dissemination of These Requirements
3. Evaluation of Information Collected Against These Requirements
4. Production Requirements
1. Identification of Narcotics Intelligence Collection Requirements

Although each agency has set its own specific narcotics intelligence collection requirements, there are basically only two formal published lists of narcotics intelligence collection requirements in existence at this time in the Executive Branch - the DEA Source Debriefing Guide and the Key Intelligence Questions. The DEA Source Debriefing Guide, published in 1975, was prepared to assist the investigator in formulating questions concerning the international and domestic drug traffic. It is intended to be a resource document to supplement the interrogative skills and knowledge of the investigator in the technical areas of drug production, processing and distribution.



Though there are advantages to listing all of the different narcotics intelligence requirements within the

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Executive Branch, only those collection requirements common to two or more agencies and those broader categories into which the collection requirements may fall are identified in this section. Basically, these broad categories would address general areas of information rather than the specific detailed questions. The following breakdown by agency or department outlines the broad categories of information included in the narcotics intelligence collection requirements of the Executive Branch.

a. Department of State

The narcotics intelligence collection requirements of the Department of State are essentially [REDACTED]

[REDACTED] the following five broad areas of information:

- (1) Information on the plans and intentions of the following countries with respect to narcotics control: [REDACTED]
- (2) Information on the effectiveness of these countries in carrying out anti-narcotics activities.
- (3) Information on the degree to which anti-narcotics activities are supported or opposed by politically influential groups within the aforementioned countries.
- (4) Information on the role which licit and illicit narcotics or activities associated with narcotics, play in the designated countries' economies.
- (5) Information on the existence of corruption within each of the previously mentioned countries (and in other major countries) which inhibits or prevents effective anti-narcotics programs.

b. U.S. Customs Service

The U.S. Customs Service is a collector of narcotics intelligence insofar as it relates to Customs'

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enforcement mission of interdiction at the U.S. borders and ports of entry. The Memorandum of Understanding dated December 9, 1975, between Customs and DEA specifically states that "Customs may gather information from the air and marine community related to the smuggling of contraband and Customs will continue to maintain liaison and gather information from foreign customs services on all smuggling activities." To support its mission, Customs has set certain narcotics intelligence requirements. The categories of information are as follows:

- (1) Traffickers: Identity of known and suspected foreign and domestic narcotics traffickers and associates who may be directly or indirectly engaged in smuggling narcotics into the United States.
 - (2) Travel Patterns and Modus Operandi: Actual and potential travel routes used by foreign and domestic traffickers and associates; modes of transportation utilized; types of documentation utilized; methods of concealment; extent of traffickers' knowledge of U.S. Customs operation and how this information was obtained.
 - (3) Neutrality/Currency: All cases involving exchanges of arms for narcotics, and/or money leaving or entering the United States.
 - (4) Commercial Cargo Smuggling: Identification of corporations, carriers, employees of carriers and other individuals engaged in smuggling via commercial cargo shipments. Identification of foreign shippers or firms used as a cover for smuggling, preferred narcotic usually involved, and destination. Whether smuggling activities pass through ports of entry and reasons why, or penetrate the border between ports of entry, and at which points.
- [REDACTED]
- [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

d. Drug Enforcement Administration

The basic intelligence collection requirements of the Drug Enforcement Administration (DEA) are found in the DEA Source Debriefing Guide, which was prepared in 1975 to assist the investigator in formulating questions concerning the international and domestic drug traffic. The general questions, provided in Part One of this guide, are designed to identify the areas of knowledge of the person under questioning. These areas include such information as methods of concealment, sources of supply, financing, price and purity of the drugs upon entering the United States, etc. Part Two of the Guide consists of 191 specific questions related to the following five subject areas:

1. Production, Processing, and Distribution of Opium/Heroin and Coca/Cocaine

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- A. Sources
 - B. Heroin and Cocaine Laboratories
 - C. Transportation and Storage
 - D. Identification of Persons or Groups
Involved in the Drug Traffic
 - E. Arrangements for Obtaining or Moving
the Drugs
2. Production, Processing and Distribution of
Dangerous Drugs
 - A. Source
 - B. Illicit Laboratories
 - C. Diversion of Legitimate Drugs
 3. Questions for Persons with Detailed Knowledge
of Laboratories
 - A. Production
 - B. Marketing
 4. Questions for Persons with Specific Knowledge
of Smuggling or Transporting Drugs
 - A. Smuggling
 - B. Transportation
 5. Persons Apprehended at a Border while Smuggling
Contraband
 - A. Contraband
 - B. Traffickers

In addition to the DEA Source Debriefing Guide, DEA has prepared a draft set of intelligence requirements which are further discussed on page 46. These new requirements supplement the Source Debriefing Guide in specifying precisely the kind of information needed (e.g., names, aliases, criminal records, language capabilities, financial data, cover enterprises, etc.). Additionally, DEA is currently in the midst of preparing foreign intelligence requirements tailored to specific geographic areas throughout the world. When completed the three related sets of intelligence requirements will provide DEA Special Agents with the appropriate tools to gather the necessary intelligence needed by the Executive Branch.

[REDACTED]

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2. Formulation, Coordination, Tasking, and Dissemination of These Collection Requirements

Narcotics intelligence information collection requirements are set primarily by the producers of finished intelligence. For the purpose of this study, the Team addressed the question of requirements as it relates to the collectors of information. Within the law enforcement agencies, each DEA and Customs Special Agent and Customs Officer plays a dual role of collector and consumer of information. Within CIA, however, collection is the responsibility of the Operations Directorate while the role of consumer rests with the Intelligence Directorate which is responsible for the analysis of information and the production of strategic studies.

The differences in the objectives of the intelligence community and the law enforcement agencies are reflected in the respective agencies' approaches to collection and to the formulation, coordination, tasking and dissemination of their requirements. The following paragraphs describe the methods used by each agency or department to formulate, coordinate, task and disseminate their narcotics intelligence collection requirements:

a. Drug Enforcement Administration

DEA's narcotics intelligence collection requirements are largely extracted from the Enforcement Agents Manual and the DEA Source Debriefing Guide. DEA reports that it is currently in the midst of revising and consolidating the voluminous narcotics intelligence collection requirements amassed by the Requirements Management Group (RMG). The first draft of these new requirements is now being coordinated within DEA, and will be disseminated shortly for coordination with U.S. Customs, the Department of Treasury and the Internal Revenue Service. After the coordination phase, the requirements will be levied on the appropriate collectors and the Source Debriefing Guide will be reassessed to determine if any additional changes are warranted. In the interim, every DEA Regional Director has been recently asked to stress the importance of the use of the Source Debriefing Guide by every Special Agent when debriefing defendants, informants and fugitives.

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b. U.S. Customs Service

Customs' narcotics intelligence collection requirements are inherently imposed upon the Service by the very nature of its narcotics interdiction mission. This mission requires the enforcement of laws which are intimately intertwined with narcotics trafficking (e.g., currency reporting, neutrality violations, navigation laws, etc.). The coordination of requirements within Customs is accomplished by field entities and on a case-by-case basis with other Federal agencies.

Many of Customs' collection requirements are met by other Federal agencies involved in the Federal narcotics control program. [REDACTED]

[REDACTED] The problem, however, is not the fact that the collection agencies are not aware of Customs' intelligence requirements, but that these agencies, especially DFA, are not collecting intelligence with the view toward satisfying the interdictory related needs of the Customs Service."

c. Department of State

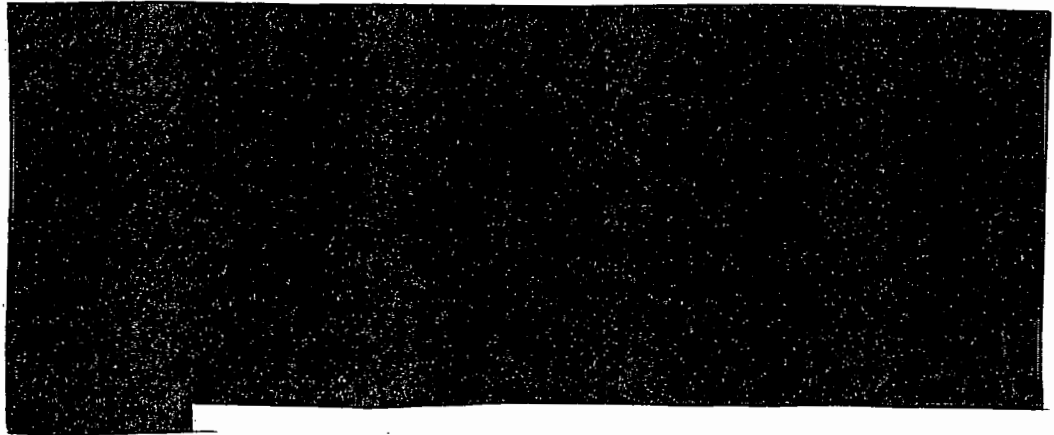
Within the State Department, embassies report on the attitudes and commitments of foreign governments with regard to the international narcotics problem and on the political, economic and sociological factors which affect the ability and resolve of these governments to conduct active control programs. Embassies are the recognized official channels through which foreign governments communicate to Washington their views and positions on international narcotics control, as well as on other matters. In 1977, the Department of State, working with other concerned agencies, developed and transmitted to embassies abroad, a series of communications containing specifically tailored narcotics intelligence collection requirements.

d. Central Intelligence Agency

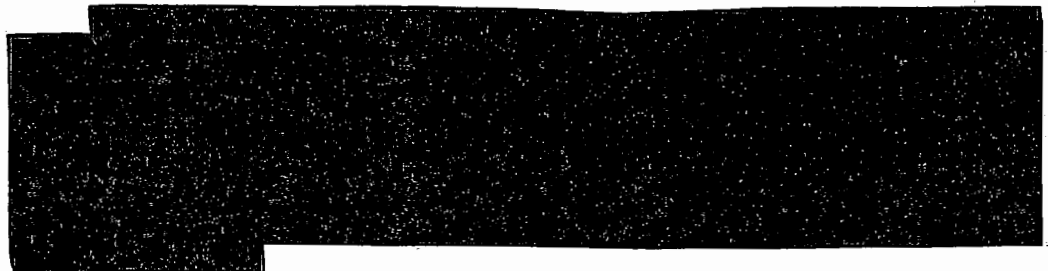
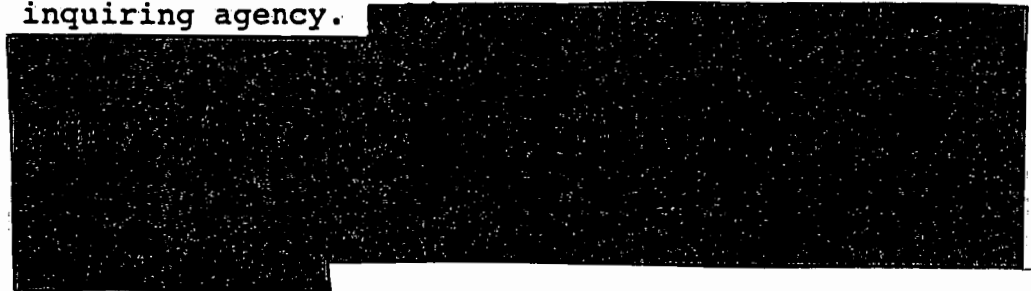
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The CIA receives requests for narcotics intelligence from DEA, Customs, the State Department and other Federal agencies. These requirements for clandestine reports or finished intelligence are processed through the office of the narcotics coordinator and replies are duly sent to the inquiring agency.



3. Evaluation of the Information Collected Against These Requirements

Evaluation of the information collected against the narcotics intelligence collection requirements is an essential part of the requirements process. Without an evaluation or feedback phase, information will be collected haphazardly without necessarily responding to the needs of the overall Federal narcotics strategy. To be

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meaningful, this evaluation should be performed by both collectors and consumers within each agency as well as reviewed from an Executive Office perspective. As previously mentioned there is no formal interagency mechanism for the formulation and coordination of narcotics intelligence collection requirements, nor is there an interagency mechanism to evaluate the information collected against these requirements. In the absence of formalized interagency procedures for evaluating this information, the various agencies and departments have taken internal initiatives to evaluate collected information.

a. Drug Enforcement Administration

The Drug Enforcement Administration has both a central intelligence analysis function in Headquarters and decentralized analysis functions in each of DEA's 15 Regional Intelligence Offices throughout the world. Regional intelligence analysts review all information which is collected by DEA Special Agents and reported on the standard reporting form DEA-6. Initially, these reports are reviewed to extract additional tactical and operational intelligence and then later used to produce Major Organizational Reports (MOR's) or Narcotics Trafficker Profiles (NTP's). These finished intelligence reports and the raw information are later used to assist in the analysis of new strategic trends which are reported in such Headquarters products as the Strategic Intelligence Quarterly Trends.

Analysts of the El Paso Intelligence Center (EPIC), comprised of full-time Watch participation from DEA, INS, and the Coast Guard, collect, analyze and disseminate information regarding drug movement and illegal alien activity along the border. The liaison and coordination responsibility with Customs, FAA and ATF is accomplished by representatives assigned to EPIC. The center is currently expanding its intelligence exchange with foreign enforcement agencies as well as domestic State law enforcement organizations.



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INS and Customs have also been recently asked to participate in DEA's Asian Heroin Working Group which provides the same kind of information related to Southeast Asian narcotics activity. Participation in both of these groups allows for the production, on a timely basis, of joint strategic studies as well as perishable tactical intelligence to assist the interdiction agencies in performing their duties and responsibilities and to support the investigative efforts of all DEA field offices.

b. U.S. Customs Service

Customs has a centralized intelligence analysis function at the Headquarters level. All narcotics intelligence received from Customs Officers, other Federal agencies, State and local authorities or international sources is reviewed on a routine daily basis by qualified analysts who are trained to compare such information with Customs' intelligence requirements and to extract any information of a tactical or strategic nature for dissemination. The final evaluation of narcotics intelligence is measured by the tangible results, i.e., statistics on seizures and arrests which can be directly attributed to this information entered into the CLEAR System (Customs Law Enforcement Activity Reporting System). Customs provides feedback to the collection agency when the narcotics information is received. In these instances, Customs provides the collection agency with the results of any information subsequently developed by Customs as well as any recommendation on how the information could be improved in the future to assist in the narcotics interdiction mission. In the event that the analyst determines that gaps exist in the information received, the respective agency responsible for that submission, e.g., DEA, CIA, etc., is tasked with the specific requirements on an ad hoc basis via letter and/or telephone.

[REDACTED]

[REDACTED]

[REDACTED]

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e. The Department of State

There is no formal system within the State Department for evaluating the individual narcotics reports received from the embassies.

4. Production Requirements

The production of analyzed narcotics intelligence is an integral part of the narcotics intelligence requirements process. From the various finished intelligence products, policy-makers can accurately assess the direction and accomplishments of the Federal narcotics control effort, law enforcement authorities can proceed against identified narcotics traffickers and smuggling methods with a definitive plan of action, and diplomatic representatives can persuade foreign governments to take more forceful action against their local narcotics production. These finished intelligence products are prepared based on outstanding production requirements.

The following examples are provided to illustrate the various existing finished intelligence products:

Published on a Regular Basis

1. DEA's Weekly Digest of Narcotics Intelligence
2. Customs Intelligence Bulletin



4. The EPIC Weekly Brief

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5. DEA's Major Narcotics Organizational Report and Narcotics Traffickers Profiles
6. DEA's Quarterly Narcotics Trends

Special Products

1. [REDACTED]

2. [REDACTED]

4. [REDACTED]

The agency responses to the question regarding production requirements revealed the following general findings:

1. Narcotics intelligence production requirements within each agency or department are generally set and fulfilled on an ad hoc basis, often at the initiative of an individual analyst or agent.
2. There is no formal interagency system to set, validate, and coordinate narcotics intelligence production requirements.
3. There is no formal interagency system to evaluate the finished narcotics intelligence products prepared by each agency or department.

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SECTION C

C. NEED FOR AN INTERAGENCY NARCOTICS INTELLIGENCE
COORDINATING STRUCTURE AND PROCEDURES

Historically, interagency narcotics intelligence coordination mechanisms have involved a variety of autonomous committees, subcommittees, working groups and ad hoc task forces. The President's memorandum of March 14, 1977, abolishing the Cabinet Committees, eliminated many of these groups.

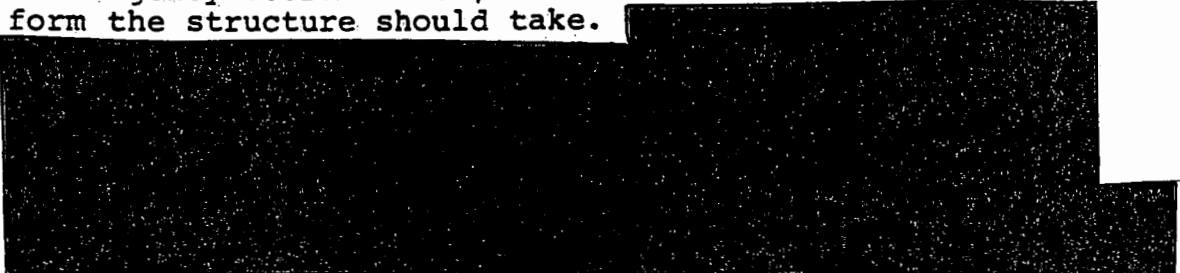
In light of past efforts to coordinate narcotics intelligence activities, the Team was asked to respond to the following questions:

1. Is there a need for a structure within the Executive Branch to assure interagency guidance and coordination of narcotics intelligence activities?
2. If so, what form should this structure assume?
3. What responsibilities should this structure fulfill?
4. What needs to be done to formally establish such a structure and assume a permanent coordinating role within the Executive Branch?

Discussion


Based on the responses to the questions posed under this issue, there is a pressing need for an interagency narcotics intelligence coordination structure within the Executive Branch which would standardize requirements and dissemination procedures and improve the value of raw reports and analyzed intelligence for the consumers.

While there was general agreement as to the need for interagency coordination, differences arose as to what form the structure should take.



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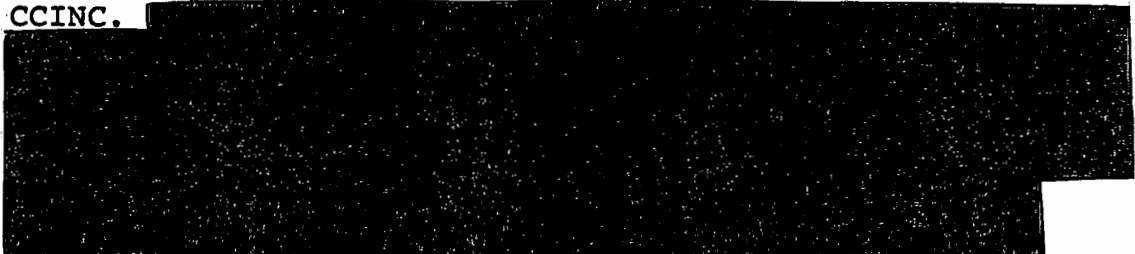
In addition to this discussion of the structure's form, the Team also looked into the past to see why other interagency coordination efforts had not been successful. Coordination of the Federal narcotics control effort had been hampered, in part, by the fact that there are a number of departments and agencies engaged in narcotics control activities which are governed by different, and not always compatible, policy and legal considerations. The September 1976 Hearings of the House Select Committee on Narcotics Abuse and Control drew attention to the inadequacy of the interagency coordination of narcotics intelligence. The recommendations of the Committee are replete with references to "the lack of information sharing among the Federal agencies" and "the serious lack of coordination among these agencies." Furthermore, the Committee maintained that "the myriad of interagency committees, task forces and councils either do not meet often enough or meet too often. They appear to be talk sessions more than action sessions." (p.75)

There appear to be three reasons which account for the limited results of these coordination efforts: 1) irregular and often infrequent meetings of the coordinating groups; 2) the unspecified authority of these groups; and 3) their ill-defined responsibilities. To illustrate the infrequency of meetings one need only cite the example of the CCINC which had not held a formal session from December 1973 until its demise in March 1977. Although the subcommittees and the working groups of the CCINC met frequently since December 1973, they did not receive the policy direction and support of the Cabinet Committee which are so essential to effective inter-agency coordination.

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To illustrate this problem one need only look back on the narcotics intelligence requirements process of the Foreign Intelligence Subcommittee (FISC) of the CCINC.



Since the disestablishment of the FISC, there has not been a formal interagency mechanism or structure for the formulation and coordination of narcotics intelligence requirements. Thus, each agency is free to collect according to its own perceived needs and capabilities with little Executive Branch overview and coordination.

The unspecified authority and ill-defined responsibilities of these coordinating groups have proven to be recurring problems for effective narcotics intelligence coordination. Perhaps the greatest obstacle to successful coordination arises from the lack of authority accorded to these coordinating groups. In the past, these interagency committees and subcommittees have been little more than advisory groups with little influence on the various Federal agencies and departments. In the past, the subject of narcotics intelligence has been addressed simultaneously by a subcommittee of the CCINC, by a committee of the NFIB, by a subcommittee of the Cabinet Committee for Drug Law Enforcement and by a working group of the Strategy Council. Many of the recommendations of these committees involve interagency coordination issues which can best be resolved by interagency groups with a membership capable of committing their respective agencies to decisions and actions.

Deliberations on this issue clearly point to the need for a formal interagency coordination mechanism for narcotics intelligence. The precise form and authority of this mechanism will be further discussed under the section entitled "Recommendations."

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IV. Conclusions

1. The roles and responsibilities of the principal Federal agencies and departments engaged in the narcotics intelligence process are vague and imprecise and have led to unnecessary friction, fragmented collection and, in some instances, a lack of initiative. Much progress has been made; however, these roles and responsibilities still need to be refined and updated.
2. There are currently no formal interagency mechanisms for the coordination of Federal level foreign and domestic collection, analysis, dissemination and evaluation of narcotics intelligence. Lacking such a structure, narcotics intelligence coordination at the Federal level tends to be done in an ad hoc fashion. There is a pressing need for such a coordination structure to standardize requirements and procedures within the Executive Branch.
3. While drug seizures have increased in certain drug trafficking countries due to improved narcotics support, interdiction intelligence required by U.S. Customs to fulfill its mission at the U.S. borders and ports of entry has been inadequate despite the efforts of the collecting agencies. At the same time, and even within its current limited charter, Customs has devoted insufficient resources to collecting narcotics interdiction intelligence.
4. Increased intelligence on the illicit financial activities of major drug traffickers could significantly contribute to the securing of indictments and convictions of these traffickers by DEA, IRS, and other appropriate Federal enforcement agencies. At present there is insufficient information to accomplish this goal on a large scale. The Internal Revenue Service, in conjunction with DEA and Customs, is taking steps to correct this problem but financial intelligence still largely represents an untapped resource within the Federal Government.
5. Legal and administrative constraints have limited the usefulness of narcotics intelligence obtained from sensitive source operations abroad. The collection of operational and tactical narcotics intelligence by the U.S. foreign intelligence agencies has fostered, within certain law enforcement agencies, a reluctance to use any information

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derived from sensitive source operations for fear that the information may be ordered disclosed in the U.S. judicial system. The foreign intelligence agencies are reluctant to provide narcotics related information derived from sensitive source operations for fear that the source of the information will have to be revealed in the event of a prosecution. There is an additional concern that the source may have to be revealed in the event of a civil suit filed by a criminal defendant alleging violation of his civil rights.

6. There is currently no reliable system within the Federal Government to forecast the licit and illicit opium poppy crop throughout the world nor is there a reliable system which would produce tactical information to support an active eradication program.

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V. RECOMMENDATIONS

ISSUE 1

What the specific roles and responsibilities of the principal Federal agencies engaged in the narcotics intelligence process should be within a Federal strategy based on the following objectives: (a) crop eradication and crop substitution; (b) neutralization of clandestine laboratories; (c) immobilization of major international and domestic narcotics traffickers and their organizations; and (d) foreign and U. S. border interdiction of narcotics destined for the United States.

At the beginning of the discussions, each agency was asked to submit a statement of its own role and responsibility under optimum conditions. This effort produced conflicting and often isolated definitions which failed to take into account the interrelated roles and responsibilities of the Federal agencies involved. After a period of extensive negotiation, the following statements of responsibility evolved:

Recommended Statements of Roles and Responsibilities

The roles and responsibilities of the following Federal agencies engaged in the narcotics intelligence process should be as follows:

- a. The Department of State shall report on the ability, intention and resolve of foreign governments to conduct active narcotics control programs, on the programs themselves, and on the progress in their implementation. The State Department shall also report on the general factors affecting international narcotics production and trafficking, on the political, economic and sociological factors affecting the attitudes of foreign governments toward U. S. efforts to strengthen controls against the international narcotics traffic.

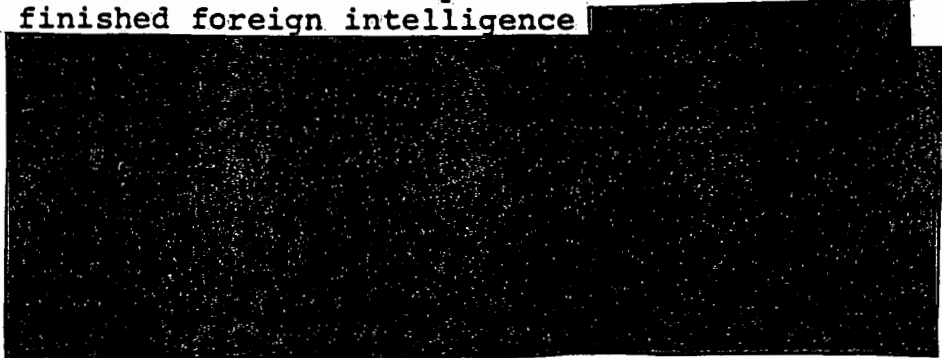
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- b. DEA, as the agency responsible for maintaining and managing a national narcotics intelligence system*, shall formulate requirements, collect, analyze, produce and disseminate narcotics intelligence related to the following objectives in cooperation and coordination with Federal, State, local and, when appropriate, foreign agencies: (1) crop eradication and crop substitution, (2) neutralization of clandestine laboratories, (3) immobilization of major international and domestic narcotics traffickers and their organizations, (4) foreign and U.S. border interdiction of narcotics destined for the United States, and (5) increased willingness and capability of foreign governments to control production and trafficking in narcotics and to limit narcotics-related official corruption. As the primary authority within the Executive Branch for the exploitation of narcotics intelligence for the purpose of drug law enforcement, DEA shall determine whether further initiatives (e.g., investigations) may be taken by other Federal law enforcement agencies based upon the information collected by DEA or any other Federal agency.**
- c. Customs shall collect information from foreign customs services and foreign trade communities on all smuggling activities including narcotics. Customs shall also participate on an initiative and bilateral basis in debriefings of narcotics violators arrested at the U.S. borders and ports of entry, provided that all information collected by Customs concerning narcotics is made immediately available to DEA, and that any further initiatives (e.g., investigations) by Customs beyond the collection of information be undertaken only with DEA concurrence under mutually agreed procedures. U.S. Customs' border and search authority and its primary responsibility for the interdiction of all contraband, including narcotics, at the land, sea and air borders of the United States shall remain unaffected by these procedures.**

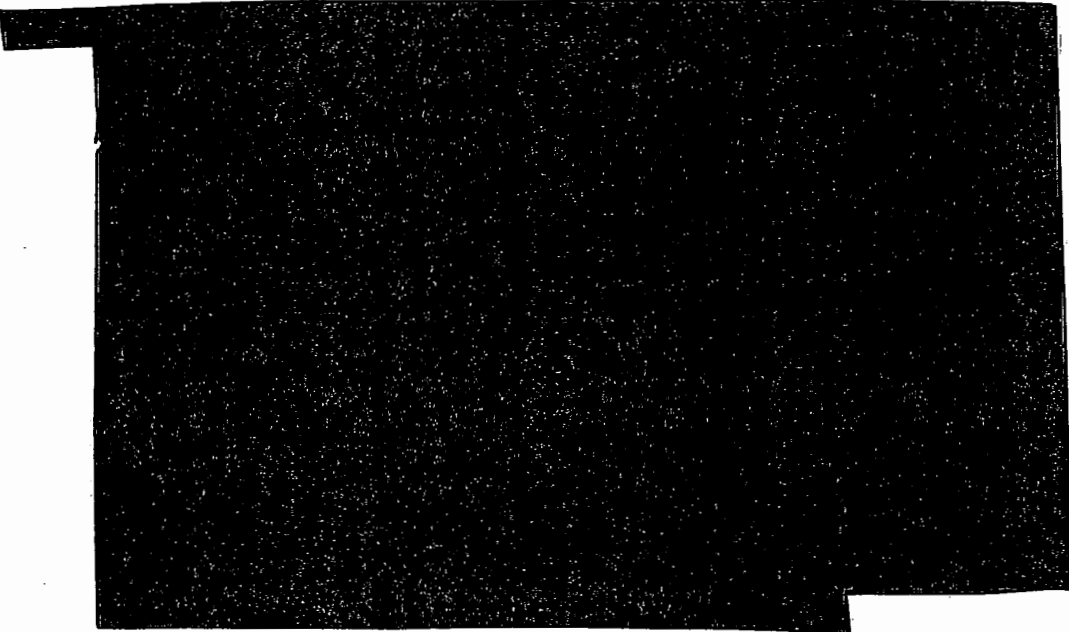
* See definition of the National Narcotics Intelligence System (NNIS) on page 6.

** ODAP Comment: It is understood that acceptance of these two statements of responsibility by DEA and Customs is contingent upon the issuance of mutually agreed procedures described under Issue #3.

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- d. CIA, in response to Executive Order 12036 and standing or ad hoc requirements levied by the Director of Central Intelligence (DCI), shall collect and disseminate foreign intelligence information and shall produce and disseminate finished foreign intelligence
- 

Coordination for all of the above activities will be in accordance with mutually agreed procedures. All of the above activities shall be consistent with current laws, Executive Order 12036 and applicable Attorney General procedures promulgated pursuant to the Executive Order.



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- f. IRS shall identify those areas of willful non-compliance of taxpayers who may also be involved in the illicit narcotics traffic and exchange this information with DEA, the Criminal Division of the Department of Justice, or other appropriate Federal agencies, to the extent consistent with statutory provisions, so that the appropriate civil examinations and criminal investigations of high level drug leaders and financiers can be initiated.
- f. The FBI shall support the U.S. Government's drug enforcement effort by providing investigative support, by debriefing FBI informants and, in coordination with DEA, disseminating all informant provided drug intelligence to the appropriate Federal, State and local agencies, by making available to the Federal, State and local agencies certain centralized FBI services, e.g., fingerprint identification, arrest records, laboratory services and access to the National Crime Information Center (NCIC) on-line files. Additionally, as proposed by the Attorney General, the FBI shall provide narcotics intelligence through joint efforts, such as the DEA/FBI Task Forces, to support investigations into the links between organized crime and drug trafficking.

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I S S U E 2

What structures and procedures are needed to ensure systematic interagency coordination of foreign and domestic narcotics intelligence activities (e.g., setting collection requirements, coordination of tasking, dissemination, production of strategic intelligence studies, and evaluation of the intelligence product) which concern such subjects as: (1) the major narcotics traffickers and their organizations, (2) financial intelligence, (3) interdiction intelligence, and (4) the commitment of foreign governments to control illicit production and trafficking.

Recommended Course of Action

A Federal-level interagency structure designed to achieve the coordination of narcotics intelligence activities should (1) ensure the complete separation, in appearance as well as in actuality, of foreign clandestine intelligence collection, analysis and production by U. S. foreign intelligence agencies from any involvement in domestic intelligence and domestic law enforcement activities; and (2) be so structured as to permit necessary coordination of foreign and domestic intelligence responsibilities.


Toward this end, two formal committees should be established:

1. A National Narcotics Intelligence Consumers Committee (NNICC) composed of the principal agencies that are consumers of narcotics intelligence. This committee would report to and take guidance from the appropriate committee(s) of the Strategy Council on Drug Abuse. The chairman of the NNICC would be designated by the Administrator of DEA. Members of this committee would include, but not be limited to, Department of State, Justice/DEA, Treasury/Customs, Treasury/IRS, Justice/FBI and Justice/INS. Formal liaison with the Foreign Narcotics Intelligence Committee (FNIC) described below would be accomplished through the chairman of the NNICC who would also be a member of the foreign intelligence committee. The NNICC would coordinate the formulation of and priorities for narcotics intelligence requirements, including narcotics intelligence estimates, and product dissemination.

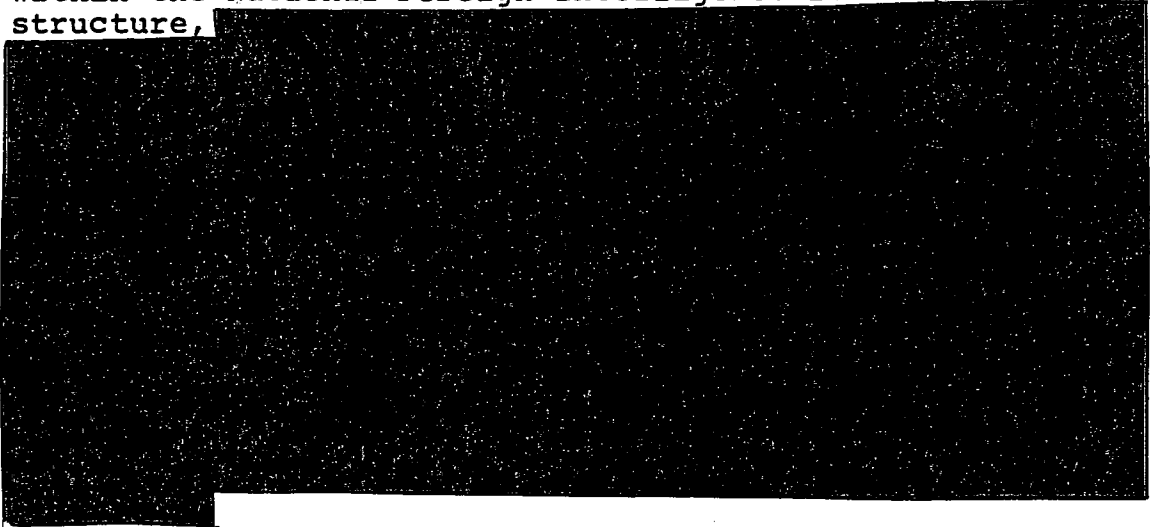
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2. A Foreign Narcotics Intelligence Committee (FNIC) within the National Foreign Intelligence Board (NFIB) structure,



In addition to formulating and coordinating narcotics intelligence requirements for collection and production, both committees, within their respective areas of competence and responsibility, would (1) ensure the timely dissemination of major narcotics intelligence estimates and other analytical products; and (2) coordinate the evaluation of information collected and intelligence produced and disseminated in response to validated collection requirements.

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ISSUE 3

How to improve the volume and flow of narcotics interdiction intelligence required by U. S. Customs Service to fulfill its mission at the U. S. borders and ports of entry.

Recommended Course of Action

To improve the volume and flow of narcotics interdiction intelligence required by U.S. Customs, it was determined that Customs should have an increased role in the narcotics intelligence process. Toward this end, the statement of Customs' role and responsibility in Issue 1 was defined as follows:

"Customs shall collect information from foreign customs services and foreign trade communities on all smuggling activities including narcotics. Customs shall also participate on an initiative and bilateral basis in debriefings of narcotics violators arrested at the U.S. borders and ports of entry, provided that all information collected by Customs concerning narcotics is made immediately available to DEA, and that any further initiatives (e.g., investigations) by Customs beyond the collection of information be undertaken only with DEA concurrence under mutually agreed procedures. U.S. Customs' border and search authority and its primary responsibility for the interdiction of all contraband, including narcotics, at the land, sea and air borders of the United States shall remain unaffected by these procedures."

To reaffirm DEA's narcotics intelligence role and DEA's primary authority within the Executive Branch for the exploitation of narcotics intelligence through drug law enforcement, the statement of DEA's role and responsibility in Issue 1 was defined as follows:

"DEA, in cooperation and coordination with Federal State, local and foreign agencies, shall collect, analyze and disseminate intelligence related to the following objectives: (1) crop eradication and crop substitution; (2) neutralization of clandestine laboratories; (3) immobilization of major international and domestic narcotics traffickers and their organizations; and (4) foreign and U. S. border

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interdiction of narcotics destined for the United States. As the primary authority within the Executive Branch for the exploitation of narcotics intelligence for the purpose of drug law enforcement, DEA shall determine whether further initiatives (e.g., investigations) may be taken by other Federal law enforcement agencies based upon the information collected by DEA or any other Federal agency."

On the basis of these two statements of roles and responsibilities, DEA and Customs are currently negotiating mutually agreed procedures and guidelines which will ensure an enhanced role for Customs and at the same time maintain DEA's lead agency responsibilities. The full text of the agreement will be made available upon its completion.

ISSUE 4

How to improve the volume and flow of financial intelligence required by DEA, IRS and other appropriate Federal law enforcement agencies to conduct investigations of major drug traffickers which would establish the traffickers' compliance with tax and other Federal law.

During the discussion of this issue, several options, specifically related to the Tax Reform Act of 1976, were presented. Initially, DEA proposed amendments to the jeopardy assessment provisions, the disclosure provisions and the administrative summons provisions of this Act which were intended to ensure a greater exchange of financial intelligence among the Federal agencies involved in the narcotics control effort. The Treasury Department initially opposed the recommendation to amend the disclosure and jeopardy assessment provisions of the Act but did support the recommendations to relax the administrative summons provisions.

After further discussion DEA and IRS concluded that the disclosure provisions and the administrative summons provisions should be relaxed to allow for a greater exchange of information. With regard to the jeopardy assessment provisions, however, IRS still held that, due to adverse court decisions in the past, changes in current IRS operating procedures regarding jeopardy assessments should not be made at this time.

With these issues nearly resolved, the team agreed to the following course of action which incorporates all of the suggestions submitted by the various agencies, with the exception of the recommended change in the jeopardy assessment provisions of the Tax Reform Act of 1976. It was further agreed that if, after a year of experience with the current operational procedures regarding jeopardy assessment, the Federal drug law enforcement agencies still believe that these provisions impose severe restrictions on the exchange of information, an additional review will be made at that time to determine whether appropriate changes in the Tax Reform Act of 1976 should be recommended to the Congress.

Recommended Course of Action

To increase the volume of financial intelligence within the Executive Branch, the following actions should be taken:

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- a) Federal law enforcement efforts should give necessary attention to the traffickers' fiscal resources through an effective and expanded Internal Revenue Service Narcotics Traffickers Tax Program to prosecute drug traffickers for violations of the Federal income tax laws.
- b) On the international level, the Department of State should more actively pursue coordinated Justice/Treasury requests to negotiate mutual assistance agreements, with selected foreign countries used by narcotics traffickers as financial havens, in order to identify those traffickers who could be prosecuted under U.S. or foreign laws. Where an agreement or pertinent foreign law is already in effect to permit the exchange of financial information, the required administrative actions should be taken to expedite and fully exploit such exchange.
- c) The restrictions imposed on the Federal Government by the Tax Reform Act of 1976, especially those relating to disclosure and summoning should be monitored to assure that there is a free exchange of information among Federal enforcement agencies. Where it can be demonstrated that the Tax Reform Act is unnecessarily impeding investigations of narcotics cases, consideration should be given to amending the Act to improve law enforcement without infringing upon legitimate privacy interests.
- d) Provisions of the Racketeer Influenced and Corrupt Organizations Statute (RICO), Title 18, United States Code, Sections 1961-1964, should be applied in narcotics investigations by all agencies as appropriate and in a more vigorous manner than in the past.
- e) The Treasury Department should gather, analyze and disseminate financial intelligence related to narcotics trafficking from IRS forms 4683 (Information Return on Foreign Banks, Securities and Other Financial Accounts), IRS forms 4789 (Currency Transaction Report) and Customs forms 4790 (Report on International Transport of Currency or Monetary Instruments) all of which are required to be filed under the (Foreign) Bank Secrecy Act.

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Such information should be used by DEA and other law enforcement agencies to identify and trace crime related financial transactions involving currency and other negotiable instruments.

- f) To facilitate the collection, analysis, and dissemination of narcotics related financial intelligence, the Departments of Treasury and Justice should continue to work together in setting financial intelligence collection requirements and in coordinating the cross training of investigators in the methodology and uses of narcotics-related financial intelligence.

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ISSUE 5

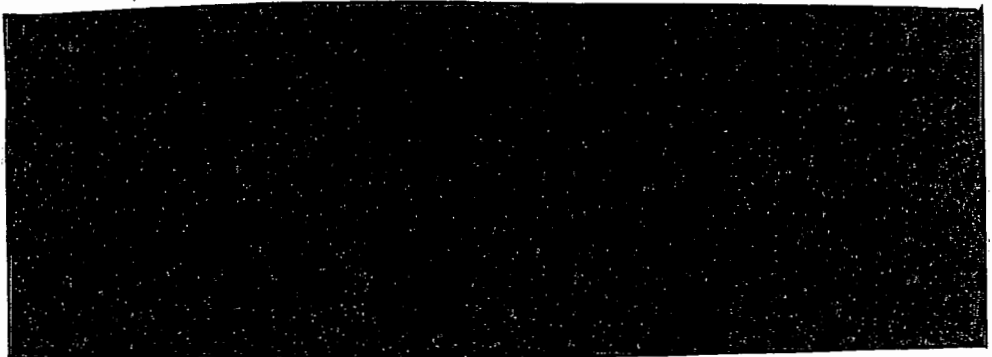
What legal, policy and administrative actions should be taken to permit the maximum operational exploitation of international narcotics information acquired by the U.S. foreign intelligence agencies from sensitive sources abroad.



Recommended Course of Action

Subject to Department of Justice procedures and guidelines, the following actions should be taken to permit the maximum operational exploitation of international narcotics information acquired by the U.S. foreign intelligence agencies from sensitive sources abroad.

a)



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b)

- c) Additional emphasis should be given by DEA to immobilizing foreign narcotics traffickers abroad through prosecutions in foreign countries where information derived from sensitive sources can be used.
- d) Narcotics intelligence from sensitive sources should be used, wherever and whenever possible, for the interdiction of narcotics at the U.S. borders and ports of entry, as well as overseas and within the continental United States, so long as the operational use of this information shall not jeopardize sensitive sources and methods. This issue also requires further study by the Department of Justice.
- e) The Department of Justice should develop a procedure whereby indexing the names of foreign traffickers would be required only in circumstances where information concerning such individuals is in fact disseminated to a law enforcement agency.
- f) In order to protect sensitive sources and methods the Department of Justice should issue appropriate notice to Federal law enforcement agencies and U.S. Attorneys advising them that narcotics intelligence collected and disseminated by the U.S. foreign intelligence agencies should not be used as a basis for initiating prosecutions in the absence of consultation with the originating U.S. foreign intelligence agency.

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ISSUE 6

How to develop a reliable system for forecasting world-wide licit and illicit opium poppy cultivation to support the overall Federal narcotics strategy and how to develop a reliable system that would produce tactical information to support an active eradication program.

The tactical system which would support crop eradication programs must be capable of satisfying the following requirements: collecting crop data over a specified geographical area; reliably detecting and identifying narcotics crops in sufficient time to permit crop eradication; and providing accurate field location and/or navigational information to enable crop eradication personnel to return to the suspected field.

The strategic system must be able to collect crop data over a desired geographical area; to reliably detect and identify opium poppy crops; to provide general location of poppy fields; to provide information on total crop size, expected yield, and estimated harvest dates.

In August 1977, the Interagency Crop Detection Technology Review Committee, [REDACTED]

[REDACTED] completed a study of advanced illicit crop detection and location systems. The Committee had been tasked by CCINC to analyze collection systems which would provide two categories of information:

- a) tactical information to support an active eradication program, and
- b) strategic information to support longer term worldwide narcotics intelligence requirements.

Recommended Course of Action

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APPENDIX A

HISTORICAL OVERVIEW OF NARCOTICS INTELLIGENCE IN THE EXECUTIVE BRANCH

A. Narcotics Intelligence Since Reorganization Plan No. 2

"To consolidate competitive drug investigative agencies into a single organization and to establish a long overdue national narcotics intelligence system to support law enforcement operations," the Administration proposed and proceeded to carry out Reorganization Plan No. 2 of July 1973. In essence, the Reorganization Plan

"transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs or marihuana, except that the Secretary shall retain, and continue to perform those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or to the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States."

The plan placed "primary responsibility for Federal drug law enforcement in a single new agency." To accomplish this, the plan called for the merger of the Bureau of Narcotics and Dangerous Drugs (BNDD), the Office of Drug Abuse and Law Enforcement (ODALE), the Office of National Narcotics Intelligence (ONNI), the drug investigative elements of the U.S. Customs Service and certain White House Science and Technology personnel into the new Drug Enforcement Administration (DEA).

Subsequent interpretations of the Reorganization Plan have led to various understandings of the single agency's specific responsibilities. Although the concept of a centralized direction of the Federal narcotics control program may have been implicit in the Reorganization Plan and

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the subsequent Executive Order 11727, the term "lead agency" was neither invoked nor assigned to DEA at that time. It was not until September 1975 that the White Paper on Drug Abuse, prepared by a task force of the Domestic Council, "endorsed a lead agency concept" (p.8) and "concurred in the basic concept of an integrated drug law enforcement agency charged with lead responsibility." (p.38) Furthermore, the task force agreed that:

"The central concept of Reorganization Plan No. 2 of 1973 - that of creating a lead agency for drug law enforcement which integrates most investigative and intelligence activities - is sound, and DEA is that lead agency." (P.45)

Customs and Treasury, as members of the Task Force of the Domestic Council, dissented in the Treasury/Customs Addendum to the Study, from the acceptance of a lead agency concept as implemented. The addendum stated:

"After more than two years of experience with the single agency investigation concept, it appears to us that the complete exclusion of Customs from intelligence gathering and investigative activities relating to narcotics smuggling has been counter-productive to the overall national narcotics enforcement effort." Further, "the lead agency concept under Reorganization Plan No. 2 should not be the basis for denying the U.S. Government diplomatic flexibility should special circumstances in certain countries dictate the marshalling of additional and available resources."

By the time the Federal Strategy was published in November 1976, the lead agency concept had evolved to a point of decentralization such that "the lead agency concept places primary responsibility for law enforcement policy with the Department of Justice; for prevention, treatment and rehabilitation policy with the Department of Health, Education and Welfare; and for international narcotics control policy with the Department of State." (p.7)

The emergence of the term "lead agency" from the various interpretations of Reorganization Plan No. 2 in the White Paper and the Federal Strategy has had a direct effect upon the roles and responsibilities of the Federal agencies and departments involved in the overall narcotics

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control program and has, therefore, been discussed in the section addressing constraints under "Section A". Though the specific agency responsibilities were never clearly defined in Reorganization Plan No. 2, the Federal agencies and departments have, nevertheless, taken certain ad hoc initiatives to accomplish the intent of Reorganization Plan No. 2. These efforts and the effects of Reorganization Plan No. 2 on the collection and production of narcotics intelligence are described below.

1) Drug Enforcement Administration (DEA)

Under Executive Order 11727, dated July 10, 1973, DEA was charged with the development and maintenance of a "National Narcotics Intelligence System." As a first step in this direction, the Strategic Intelligence Office of BNDD and the Office of National Narcotics Intelligence (ONNI) were consolidated into DEA's new Office of Intelligence. The publication of the White Paper in 1975 found that the overall narcotics intelligence function in DEA generally suffered from: "(1) insufficient funding during the internal resource allocation process and (2) counter-productive competition within and among enforcement agencies which may have impeded the production and flow of operational intelligence." The surfacing of these two issues in the White Paper provided the impetus behind DEA's allocation of additional resources to intelligence activities during FY 76 and FY 77. Responding to the second issue, DEA implemented several internal management changes in both Headquarters and field intelligence operations during 1976, and stressed the agent's responsibility to collect and report intelligence to meet multi-agency requirements. The Federal Strategy of November 1976 cited the following five changes which DEA had initiated:

- a. Scheduling intelligence collection and reporting training schools for Special Agents.
- b. Functional reporting responsibilities of the regional intelligence offices to the Headquarters Office of Intelligence.
- c. Revisions of personnel evaluation forms to include intelligence collection and reporting as an important factor to be considered in the evaluation of all agents for supervisory positions.

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- d. Revisions to the curricula of DEA's supervisor's school and mid-level management school placing greater emphasis on intelligence collection and reporting.
- e. Intelligence management training for DEA field managers.

The Federal Strategy Report further stated that "several multi-agency efforts were initiated to ensure full participation in information sharing by the drug law enforcement agencies." These initiatives, described below, are intended to provide for an exchange of information on local, regional, and national levels.



- .. El Paso Intelligence Center (EPIC): a multi-agency drug intelligence unit located on the southwest border which includes representatives from I&NS, Coast Guard, Customs, ATF, and FAA to provide 24-hour, seven days per week, on site, rapid response intelligence to field requests from Federal and local enforcement personnel.
- .. Unified Intelligence Division (UID): a joint DEA, New York City and New York State effort to gather information and translate it into effective action through analysis, evaluation, coordination and dissemination.
- .. Field Intelligence Exchange Groups (FIEGs): multi-agency groups, located in major cities throughout the U.S., which include representatives from DEA, IRS, FBI, FAA, I&NS, Customs, Coast Guard, ATF, Secret Service, Postal Services, State and local law enforcement personnel and Federal prosecutors focusing on selected major narcotics traffickers.

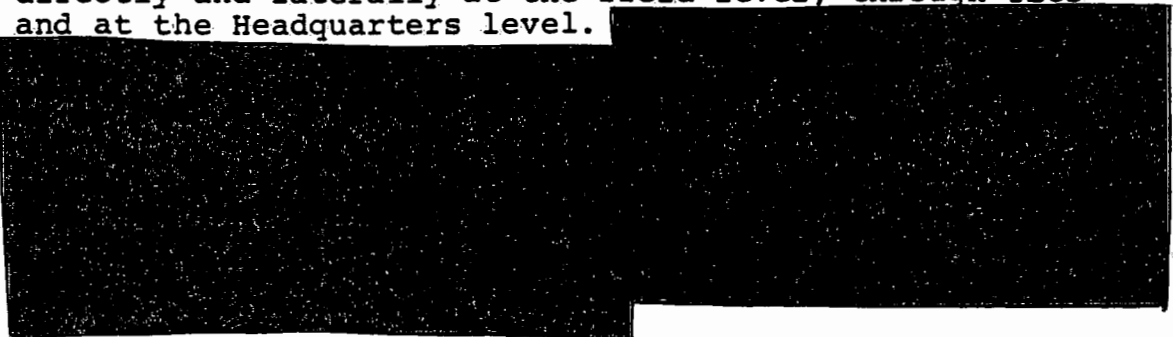
In addition to these initiatives, DEA has established several formal and informal working relationships with other Federal agencies involved in the narcotics control effort. The relationship with the Coast Guard at EPIC, for example, has resulted in the seizure of more than 600 tons of marijuana during the past year. On a monthly basis DEA supplies Customs with any new NADDIS (Narcotics and Dangerous Drugs Information System) records and the updated NADDIS records of all

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violators known to DEA.* These NADDIS records, submitted to Customs on a computer tape, are incorporated into the Treasury Enforcement Communications System (TECS). Excluding these NADDIS records, the number of referrals of information to Customs from DEA Headquarters and field elements range from 1,200 to 1,400 per month.

To further facilitate the exchange of information, full-time Customs Patrol Officers are now working out of eight DEA field offices in order to ensure complete exposure to the raw narcotics information collected by DEA agents. Two Customs representatives have been assigned to DEA's El Paso Intelligence Center (EPIC) and two to the Interagency Drug Intelligence Group-Mexico (IDIG-M) in DEA Headquarters to glean from DEA files any information that might assist Customs in its interdiction effort.

Through the exchange of the basic DEA-6 (Report of Investigation) and the Customs MOIR (Memorandum of Information Received), the standard reporting forms for narcotics information, both DEA and Customs have been exposed to each other's information. As a matter of policy, DEA agents and analysts are required to send copies of all DEA-6's concerning interdiction to Customs agents in the field, to DEA Headquarters, and to EPIC which in turn assures wider dissemination to Customs officers. If this routing is inadvertently omitted by the originator, the oversight is generally picked up by DEA's Regional Intelligence Unit in the field which then forwards the information to the concerned offices for their information and analysis. Within Customs, the exchange of information with DEA occurs directly and laterally at the field level, through TECS and at the Headquarters level.



* Only selected information from the NADDIS record itself is transmitted to Customs. The excluded information pertains to file references, criminal associates, locations of criminal activity and all free text remarks concerning the subject's activities.

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Both DEA and Customs have established special liaison staffs in their respective Headquarters to ensure that each agency has a single point of contact to monitor, coordinate, and record the intelligence exchange. These offices provide a capability for resolving any operational and policy problems which affect the exchange of information.

The relationship between DEA and IRS was formalized by the DEA/IRS Memorandum of Understanding, dated July 27, 1976. In compliance with this agreement, DEA established a Financial Intelligence Section within the Office of Intelligence. In July of 1976, DEA forwarded a list of 375 DEA Class I and II narcotics violators to IRS for tax investigations. As of January 31, 1977, 74 of these violators were under active criminal investigation by IRS. During the month of February 1977, an additional list of 204 DEA Class I and II violators was forwarded to IRS, bringing the total number of narcotics violators referred to IRS to 579. As of September 30, 1977, a total of 321 criminal investigations of narcotics traffickers had been initiated by IRS. During FY 77, IRS completed 220 criminal investigations involving major narcotics traffickers; recommended 77 prosecutions; obtained 72 indictments and 62 convictions. Recommended assessments levied on narcotics traffickers by the Audit Division of IRS during FY 77 totaled \$20.6 million.

To further enhance the narcotics information exchange between IRS and DEA, five IRS Special Agents have been detailed to DEA offices in Miami, Washington, D.C., Detroit and San Diego effective September 6, 1977.

2) U.S. Customs Service

Prior to Reorganization Plan No. 2 of July 1973, the U.S. Customs Service had co-jurisdiction over foreign narcotics intelligence collection and dissemination. According to Customs, prior to the Reorganization

"from FY 71-73, a total of 3,355 pounds of heroin were seized by Customs and the Bureau of Narcotics and Dangerous Drugs (BNDD). Of this amount, Customs seized 1,825 pounds or 54 percent. During the period FY 74-76, after the creation of DEA only 2,026 pounds of heroin were seized. Of this amount, 557 pounds (27 percent) were seized by Customs. Four years after the creation of DEA, the amount of heroin seized per year has still not

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approached the peak performance of Customs and BNDD. The reason can be given in one word - intelligence. Prior to the reorganization, when Customs had responsibility for its own narcotics intelligence, approximately 8,000 bits of information each month were put into the Treasury Enforcement Communications System (TECS) which provides Customs interdiction units with a full-range of lookout information. During FY 74, lookout entries had fallen by 90 percent and have remained at a low level ever since. It is this lack of interdiction intelligence that has caused the drop in heroin seizures."

As previously stated in the Reorganization Plan, the investigative functions related to narcotics control were transferred to DEA while the Customs Service retained the interdiction function. Those specific jurisdictional issues which had not been addressed in the Reorganization Plan were subsequently resolved in part by the Memorandum of Understanding of December 1975 between DEA and Customs. The purpose of Section 6 of this memorandum was to promote an increased collection effort, a mutual awareness of national narcotics intelligence requirements, and a concerted effort to collect aggressively against priority requirements.

Under the Reorganization Plan, Customs maintained the responsibility for interdicting narcotics at the borders and ports of entry. As seen in former Commissioner Acree's testimony before the House Select Committee on Narcotics Abuse and Control, in September 1976, approximately one-third of all Customs seizures at the border related to narcotics. (The number of contraband seizures during FY 76 totaled 67,134 of which 22,989 were narcotics seizures. p. 434) During the 18-month period between January 1, 1976, and June 30, 1977, Customs special agents opened 2,747 narcotics intelligence (Category 6) cases. The Customs Service, however, is still required by Reorganization Plan No. 2 to immediately turn over to DEA all narcotics seized at the border together with the potential defendant.

In the wake of Reorganization Plan No. 2, Customs proceeded to reappraise its organizational structure to determine how best to improve the capability of its interdiction role in the area of narcotics. Through systematized programs, Customs emphasized seizures which provide intelligence and investigative leads that could thereafter be developed into both domestic and foreign smuggling conspiracies. Customs' Integrated Interdiction Program was

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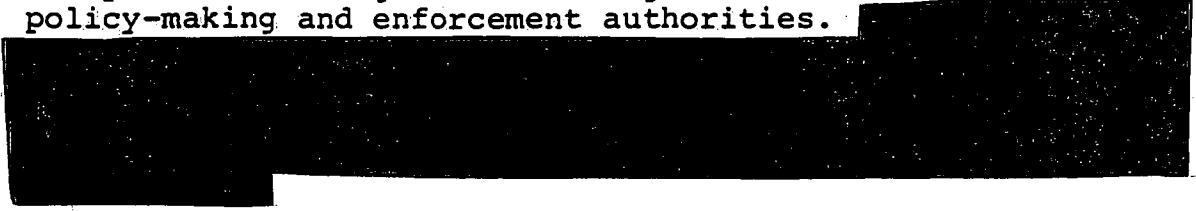
developed to assure the proper selective deployment of Customs' aircraft, boats, ground vehicles and technical systems including ground sensors, radar, covert beepers, etc., in order to seize the narcotics and apprehend those narcotics smugglers attempting to enter the U.S. at the borders and ports of entry. The effectiveness of this program, however, depends heavily upon sound intelligence. To ensure an effective flow of narcotics intelligence to the Integrated Interdiction Program, Customs has initiated a number of programs intended to improve the collection, storage and dissemination of information and hence improve the overall management of the intelligence process. These new initiatives can be summarized as follows:

- a. Three terminals providing access to narcotics intelligence in Customs Treasury Enforcement System (TECS) were provided to EPIC and two terminals were provided to DEA Headquarters. This provided DEA with the capability of placing information into the system, modifying the information and retrieving the information in support of the National Narcotics Intelligence System.
- b. Customs officers have been directed to prepare comprehensive reports on all arrests and seizures and include in their MOIR's detailed narcotics information.
- c. A procedure has been developed whereby Customs officers are required to extensively debrief any narcotics violators declined by DEA.
- d. Within TECS, an Intelligence Program (INTEL) has been developed to alert all Customs officers to the latest smuggling techniques.
- e. To improve the entire process of collection, storage and dissemination, Customs established a central intelligence analysis function at U.S. Customs Headquarters. This office, consisting of over 30 analytical and support positions, conducts an in-depth evaluation of all information obtained from Customs and other sources, determines the appropriate dissemination of the information, conducts special studies designed to support effective narcotics information to determine the relationship of narcotics smuggling to other illegal acts including the movement of currency and arms smuggling.

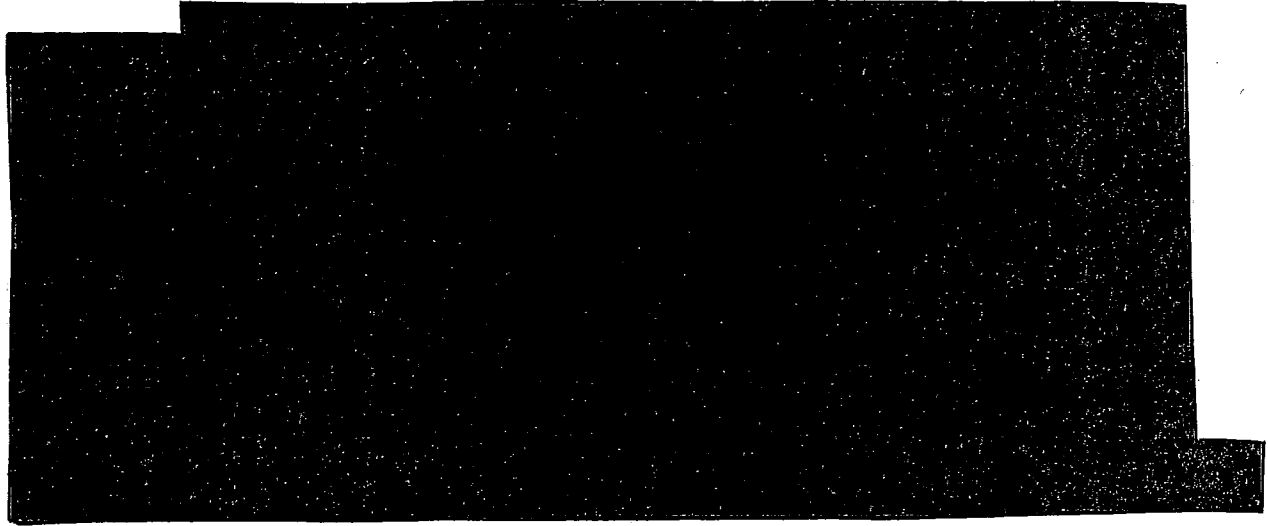
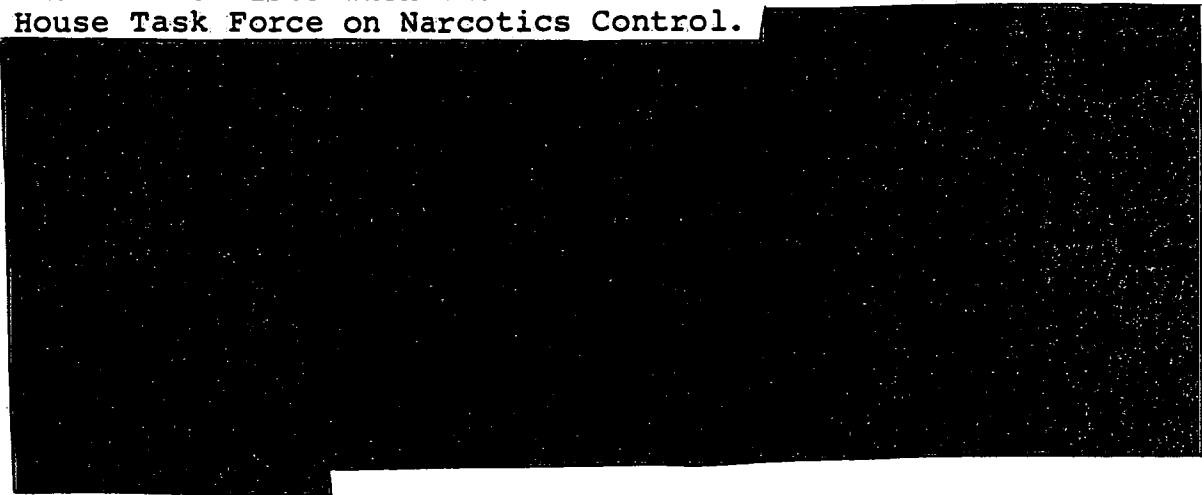
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3) The Central Intelligence Agency (CIA)

The basic charter of the Central Intelligence Agency (CIA), the National Security Act of 1947, expressly states that the Agency "has no law enforcement or policy powers." Accordingly, CIA has limited its role to collecting foreign narcotics information and to producing finished analytical intelligence for background use and as leads for policy-making and enforcement authorities.



The CIA was formally tasked to develop intelligence concerning the international narcotics traffic in the fall of 1969 when the President established a White House Task Force on Narcotics Control.



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In the new Executive Order 12036 on intelligence, which supersedes E.O. 11905, CIA is charged with the responsibility to "collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking."

4) The Department of State

With the establishment of the CCINC in 1971, the Department of State was given the leadership role in developing and coordinating an international drug control program with the ultimate objective of curtailing the illegal flow of narcotics and dangerous drugs from foreign sources into the United States. The development of comprehensive plans and programs toward that end called for the coordination by the State Department of all available intelligence and law enforcement activities which are international in scope. Reorganization Plan No. 2 did not affect this State Department responsibility. Subsequent directives have reinforced the State Department responsibility for reporting on the attitudes, capabilities, and commitments of foreign governments, with regard to the international narcotics problem, and on the political, economic and sociological factors which affect the ability and resolve of these governments to conduct active narcotics programs.

By memorandum to the Secretary of State dated April 4, 1977, the Special Assistant to the President and Director of the Office of Drug Abuse Policy (ODAP) confirmed that the Secretary of State would continue to exercise total policy and program responsibility for international narcotics control, despite the abolition of the Cabinet Committee on International Narcotics Control (CCINC). In addition, the Senior Advisor to the Secretary of State and Coordinator for International Narcotics Matters (S/NM) will head the International Affairs Working Group under the Strategy Council and will continue to allocate and manage the International Narcotics Control (INC) funds appropriated by the Foreign Assistance Act.

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5) The Internal Revenue Service (IRS)

In accordance with the President's proclamation of June 17, 1971, announcing an increased national effort to combat drug abuse, the IRS initiated a Narcotics Traffickers Project which emphasized systematic tax investigations of middle and upper echelon narcotics traffickers. The objectives of this project included the eventual tax prosecutions of narcotics traffickers and an immediate reduction in the trafficker's working capital through the assessment of taxes and penalties on the trafficker's unreported income.

The Narcotics Traffickers Project was merged with the overall enforcement program in mid 1975. However, IRS continued to identify and investigate significant tax cases on narcotics traffickers. Subsequently, the Service renewed its efforts against narcotics traffickers and established the High-Level Drug Leaders Tax Enforcement Project on July 27, 1976. This new project involved the evaluation and investigation of DEA Class I violators furnished by DEA under the IRS/DEA Memorandum of Understanding and the exchange of Currency Transaction Reports (Form 4789) and Reports of International Transportation of Currency or Monetary Instruments (Form 4790) with the U.S. Customs Service. Since most narcotics traffickers, however, deal in currency and do not maintain books and records, most cases must be worked through indirect methods of proving income, i. e., net worth, bank deposits, or non-deductible expenditures. These investigative techniques require the identification of concealed assets, identification of nominees, tracing funds through foreign bank accounts, examining legitimate businesses used for laundering funds, and unraveling various other complex financial transactions.

6) The Federal Bureau of Investigation (FBI)

The Federal Bureau of Investigation supports the U.S. drug enforcement effort by: a) pursuing joint investigations with DEA; b) locating DEA fugitives; c) debriefing FBI informants for narcotics related information which is disseminated to the appropriate Federal, State and local agencies; and d) making available certain FBI centralized services (e.g., fingerprint identification, arrest records, laboratory services, the National Crime Information Center on-line files) to the appropriate Federal, State and local agencies.

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Within each of the FBI's 59 field offices a narcotics coordinator is charged with the responsibility to provide all narcotics related information acquired by his office to the local DEA office. Complete records detailing these referrals are maintained by the FBI narcotics coordinator. Periodically, this narcotics coordinator contacts DEA to ensure that the FBI is fully aware of any actions which may be taken based on this information. Since January 1973, information developed by the FBI and furnished to DEA has resulted in the arrest of over 1,500 individuals and in the recovery of narcotics with a street value of more than \$300,000,000.

B. Interagency Narcotics Intelligence Coordination



Prior to 1969, the Executive Branch agencies collected and disseminated narcotics intelligence on an ad hoc basis. In October 1969, under the auspices of a White House Task Force designed "to formulate and implement the necessary programs required to stem the flow of heroin and opiates into the United States," the Federal agencies and departments began to emphasize the collection, evaluation and coordination of narcotics intelligence. This intelligence, so essential to the formulation of a unified narcotics control strategy, included information on drug abuse trends, drug availability, international and domestic drug sources and the capability and commitment of foreign governments to control drug production and trafficking within their own countries.

As an executive coordinating body, this White House Task Force included representatives from all the Federal agencies and departments involved in the narcotics control effort: The Department of Justice/Bureau of Narcotics and Dangerous Drugs, the Department of Treasury/U.S. Customs Service, the Department of State, the Central Intelligence Agency and the National Security Agency. With the inclusion of CIA and NSA, the Foreign Intelligence Community was requested, for the first time, to participate actively in the collection and production of narcotics intelligence. The Central Intelligence Agency, specifically, was formally "tasked to develop intelligence concerning the illegal narcotics traffic ... (and) to use its existing intelligence gathering apparatus, to the extent possible, to provide foreign narcotics related intelligence to other agencies which were involved in diplomatic, enforcement and treatment initiatives coordinated by the Task Force."



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1. Cabinet Committee on International Narcotics Control (CCINC) and the Foreign Intelligence Subcommittee (FISC)

In September 1971, the President elevated international narcotics control to an even higher priority and replaced the White House Task Force with the Cabinet Committee on International Narcotics Control (CCINC). The CCINC, chaired by the Secretary of State, was charged with the development of a Federal Strategy which would check the illegal flow of narcotics to the United States and would coordinate the efforts undertaken abroad by the Federal agencies and departments implementing that strategy. One of the standing subcommittees of the CCINC, the Foreign Intelligence Subcommittee (FISC) annually reviewed and revised the list of the drug-producing countries which posed the greatest problem in curtailing the flow of drugs into the United States.

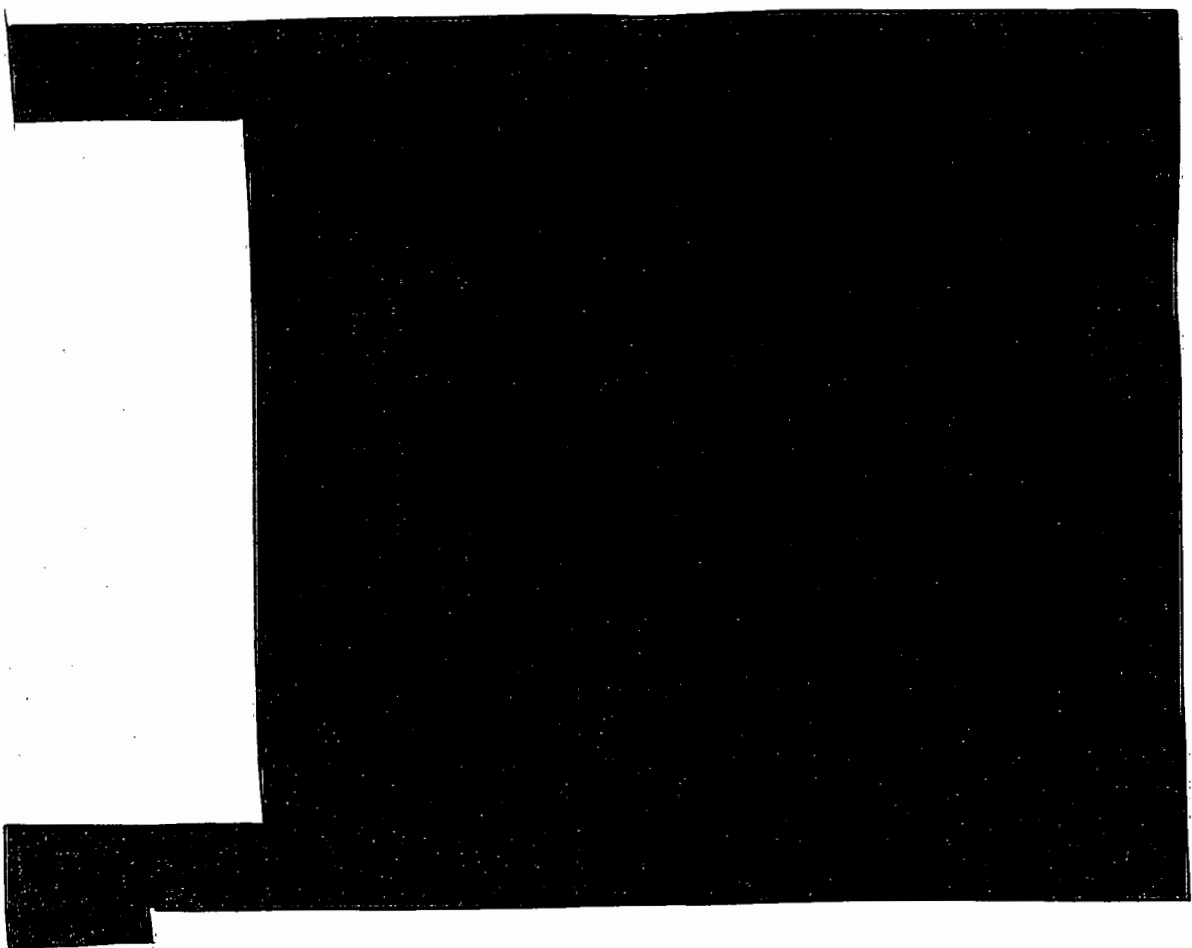


On March 14, 1977, the President formally abolished the CCINC and the FISC and transferred their functions to the Strategy Council on Drug Abuse.



CONFIDENTIAL

CONFIDENTIAL



3. The Office of National Narcotics Intelligence (ONNI)

The Office of National Narcotics Intelligence was established in the Department of Justice by Executive Order 11677, dated July 27, 1972. This Office was charged with the establishment and maintenance of a "National Narcotics Intelligence System through which the drug-related community could cooperate in gathering and disseminating information and in producing intelligence studies for Federal, State and local agencies concerned with the drug problem." By Executive Order 11727, dated July 10, 1973, the President formally abolished ONNI and reassigned its functions to the new Drug Enforcement Administration.

4. The Strategy Council on Drug Abuse

Prior to the incorporation of ONNI into DEA, Congress passed the Drug Abuse Office and Treatment Act of 1972 which established a Special Action Office for Drug

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LIMITED OFFICIAL USE

Abuse Prevention (SAODAP) in the Executive Office of the President. A subsequent amendment to this act provided for the establishment of a Strategy Council on Drug Abuse whose membership would include the Director of the Special Action Office, the Attorney General, the Secretaries of Health, Education and Welfare, State and Defense, and other officials as the President may deem appropriate. The Strategy Council was charged with the development of a long-term Federal strategy for all drug abuse programs and activities conducted, sponsored, or supported by any department or agency of the Federal Government. Specifically, this strategy, to be reviewed annually, would consist of: (a) an analysis of the nature, character, and extent of the drug abuse problem in the United States; (b) a comprehensive Federal plan specifying the objectives of the Federal strategy and how all available resources, funds, programs, services and facilities authorized under relevant Federal law should be used to achieve those objectives; and (c) an analysis and evaluation of the Federal effort to date. As required in Section 104 of the Act, the Special Action Office was abolished on June 30, 1975, leaving the responsibility for the Federal Strategy with an officer or agency of the United States to be designated by the President. The most recent Federal Strategy report was published in November 1976 by the Strategy Council on Drug Abuse.

On March 14, 1977, the President issued a memorandum to all the members of his cabinet announcing the "revitalization of the Strategy Council" and at the same time activating the Office of Drug Abuse Policy (ODAP) (described below). In addition to the standing members previously mentioned, the Secretary of the Treasury and the Director of the Office of Management and Budget became full participating members of the Strategy Council and the Director of the Office of Drug Abuse Policy became its Executive Director.

5. Cabinet Committee for Drug Law Enforcement (CCDLE)

On April 27, 1976, the President created the Cabinet Committee for Drug Law Enforcement (CCDLE) which, together with the CCINC, integrated the efforts of seven Federal departments and 17 Federal agencies into an overall narcotics control program. The CCDLE had actually been operating for some time as one of the several working level subcommittees on the Drug Abuse Task Force which had

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prepared the White Paper on Drug Abuse published in September 1975. Under the auspices of the CCDLE subcommittee responsible for domestic narcotics intelligence, two pilot Field Intelligence Exchange Groups were established in Chicago and Miami, under the direction of DEA. These groups, which have continued to operate despite the demise of the CCDLE, were designed "to maximize prosecutions against key high-level traffickers and financiers by coordinating the local intelligence resources of Federal agencies and State and city law enforcement organizations." In conjunction with his review and reorganization of the Executive Branch, the President formally abolished the CCDLE on March 14, 1977, and consolidated the functions of the CCDLE, the CCINC and the Cabinet Committee on Drug Abuse Prevention into the Strategy Council.

6. The Office of Drug Abuse Policy (ODAP)

When he signed into law PL 94-237, dated March 20, 1976, which amended the Drug Abuse Office and Treatment Act of 1972, the President formally approved the establishment of the Office of Drug Abuse Policy in the White House. Although he signed the bill, President Ford did not seek appropriations for the new office created by the bill. At the beginning of his Administration, President Carter sought the necessary appropriation and activated the Office of Drug Abuse Policy in a Memorandum issued on March 14, 1977. In accordance with Public Law 94-237, and this Presidential Memorandum, the Director of the Office of Drug Abuse Policy (ODAP) was directed by the President to fulfill the following responsibilities:

- .. Recommend government-wide improvements in the organization and management of Federal drug prevention and control function and recommend a plan to implement the recommended changes;
- .. Study and recommend changes in the resource and program priorities among all agencies concerned with drug abuse prevention and control;
- .. Assume the lead role in studying and proposing changes in the organization and management of Federal drug abuse prevention and control functions, as part of my promise to reorganize and strengthen government operations; and

LIMITED OFFICIAL USE

- .. Provide policy direction and coordination among the law enforcement, international and treatment/prevention programs to assure a cohesive and effective strategy that both responds to immediate issues and provides a framework for longer term resolution of problems.


Additionally, the Director of ODAP was appointed the Executive Director of the Strategy Council previously described under Section 3. Initially, the Office of Drug Abuse Policy was authorized through September 30, 1978. On July 15, 1977, the President sent to the Congress a reorganization plan for the Executive Office of the President which included a provision to discontinue the Office of Drug Abuse Policy. It was announced, however, that the President's Special Assistant for Health and Human Needs, Dr. Peter G. Bourne, "would fulfill those functions previously assigned to ODAP and continue to coordinate the Federal effort in drug abuse with his increased staff."


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APPENDIX B

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3. Interim Report of the Select Committee on Narcotics Abuse and Control Together with Additional Views - U.S. House of Representatives; 95th Congress, First Session; February 1977.
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- 
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13. Federal Register, Part III, Executive Order 12036,
The President: United States Foreign Intelligence
Activities, January 24, 1978.



DEPARTMENT OF STATE

Washington, D.C. 20520

~~CONFIDENTIAL~~

January 27, 1978

Dear Dr. Bourne:


The Draft Report on the Role of Intelligence in Narcotics Control and Interdiction, transmitted under cover of your letter dated December 14, 1977, has been reviewed by S/NM and INR.

Except as noted below, this letter concurs in the recommendations and endorses the proposed courses of action (pp. 58-72). The structural positions of the two proposed interagency committees (pp. 62-63) are understandably imprecise at this time, pending the development of the committee system of the Strategy Council.

The authority of the Ambassadors in the intelligence area (p. 7) is based upon their statutory responsibility under the direction of the President to direct, coordinate, supervise, and support the activities and programs of every element of their Missions. In this regard, therefore, the Ambassadors direct as well as coordinate narcotics intelligence collection in foreign countries.

Other specific comments on this draft report have been transmitted directly to members of your staff.

Sincerely,

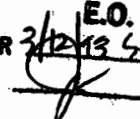

Joseph H. Binnemann
Acting Senior Adviser and Director
for International Narcotics Control Matters

Dr. Peter G. Bourne,
Director,
Office of Drug Abuse Policy,
The White House.

031700Z JAN 78
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E.O. 12333, Sec. 3.4
PER 3/12/13 S/LK L/WE MR-NLC-92-14
BY  NARS, DATE 2/23/96

~~CONFIDENTIAL~~

-2-

immediate action which would benefit the Federal Government's anti-narcotics efforts. It recognizes that narcotics interdiction requires intelligence not provided to Customs at the present time. We intend to work with the Customs Service to see if guidelines consistent with this recommendation can be agreed upon with DEA. In addition, the improved coordination suggested by the report's recommendations for two interagency narcotics intelligence committees should, if implemented, also be of value.

Issue 4 relates to the development of financial intelligence involving major drug trafficking. The Treasury Department is in the midst of a program aimed at increasing the effectiveness of the Bank Secrecy Act. As part of this program plans are being developed which, consistent with legitimate notions of privacy, will allow for increased analysis of the data reported under that statute, and provide agencies with information to assist them in their enforcement responsibilities. There already has been an improved flow of significant information to DEA which has enabled several major investigations to be undertaken. We believe, however, that this program can best be administered by Treasury coordinating its efforts with other agencies without the creation of another formal interagency task force as recommended by the report.

The draft report also discusses the impact of the Tax Reform Act on the ability of the Internal Revenue Service to provide information to other agencies. While that statute does reduce the availability of certain IRS information to other law enforcement agencies, it does not totally prevent such access. IRS has continued to work with DEA and to investigate suspected narcotics dealers for possible violations of the tax laws. In addition, pursuant to this statute, IRS is in the process of supplying information to DEA concerning a substantial number of possible narcotics violators. As suggested in the report, we intend to monitor carefully the enforcement impact of this statute to determine whether new legislation in this area is needed.

Sincerely,

Bette B. Anderson

Bette B. Anderson

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C-3



~~CONFIDENTIAL~~

UNITED STATES DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION
Washington, D.C. 20537

MAR 2 1978

Honorable Peter G. Bourne
Director
Office of Drug Abuse Policy
The White House
Washington, D. C. 20500

Dear Peter:

Subject: ODAP Draft "The Role of Intelligence in Narcotics Control and Interdiction--A Policy Review."

DEA has reviewed the 28 February 1978 draft ODAP Intelligence Review and is pleased to note that many changes have been made in response to our letter of December 30, 1977. In other areas, discussion by members of our staffs clarified statements made in the original ODAP draft.

While much progress has been made, the two policy points noted in our initial response remain:

- A. The ODAP Drug Law Enforcement Study reaffirms the role of DEA as the lead agency for narcotics law enforcement--internationally and domestically. Vital to the conduct of this law enforcement responsibility is narcotics intelligence support. The draft ODAP Intelligence Review diffuses the Federal narcotics intelligence responsibility into two committees. DEA believes that the intent of the Controlled Substances Act, Executive Orders, and Reorganization Plan Number 2 was to establish DEA as the lead agency for narcotics intelligence in support of law enforcement activities. As in law enforcement, this role is one of coordinator and not, as some have interpreted, management control (resource review, organizational evaluation, etc.). We propose that the definition of the DEA role and responsibility (Issue 1) delineate this lead agency responsibility by the addition of the following sentence to paragraph b: "DEA as the 'lead

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SCHEDULE OF EXECUTIVE ORDER 11652
EXEMPTION CATEGORY: (S)(1), (2), (3), or (4) (circle one or more)
AUTOMATICALLY DECLASSIFIED ON impossible to determine

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E.O. 12356, Sec. 3.4

PER 3/1/83 DJS HZ RE MR-NLC-92-16
BY *[Signature]* NARS, DATE 2/23/96

~~CONFIDENTIAL~~



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

December 27, 1977

BY LIAISON

Dr. Peter G. Bourne
Director
Office of Drug Abuse Policy
The White House
Washington, D. C.

Dear Dr. Bourne:

Reference is made to your letter of December 14, 1977, enclosing the initial draft for comment on "The Role of Intelligence in Narcotics Control and Interdiction."

A review has been made of the draft report and we have no comments or observations.

Mr. Seymour Bolten of your office requested, on December 22, 1977, that this Bureau specifically address the recommendations section of the draft. We concur with your recommendation as it pertains to our role and responsibilities.

I appreciate the opportunity to be of assistance to you in this most important area of national concern.

Sincerely yours,

A handwritten signature in cursive script, reading "C M Kelley", is written over the typed name.

Clarence M. Kelley
Director



~~CONFIDENTIAL~~

would have to be reviewed by the appropriate element of the Foreign Intelligence Community--the permanent Narcotics Intelligence Subcommittee which was established under the aegis of the Critical Collection Problems Committee.

The Agency appreciated the opportunity to be a part of this endeavor and stands ready to continue our support to your office as the Study goes forward in the form of policy and organizational recommendations for the President.

Sincerely,

John F. Blake
John F. Blake
Acting Deputy Director

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|------------------|------------------------------|---------|-------------|
| report | Presidential Summary 2pp | 2/28/78 | A |
| memo | Director to Peter Bourne 2pp | 1/16/78 | A ✓ |

FILE LOCATION

Carter Presidential Papers-Staff Offices, Handwriting File, 3/13/78 [No. 2] Box 76

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THE WHITE HOUSE
WASHINGTON

March 13, 1978

Jack Watson

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: CSA FUNDING DECISION ON THE
NATIONAL DEMONSTRATION WATER
PROJECT

THE WHITE HOUSE
WASHINGTON

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| | FOR STAFFING |
| | FOR INFORMATION |
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| | ENROLLED BILL |
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| | Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day |

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THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

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Jack
The decision
is Grace's -
Let her explain
it to interested
persons
JC

MEMORANDUM TO: THE PRESIDENT

FROM:

Jack Watson *Jack*

March 10, 1978

RE:

CSA Funding Decision on the National
Demonstration Water Project

Ten days ago, I began to be flooded with telephone calls, letters and telegrams from governors, local officials and Members of Congress addressed to you or to me, expressing support for continued funding by CSA of the National Demonstration Water Project (NDWP). The NDWP is a coalition of more than 400 community groups working to provide technical assistance, front-end financing and community organizing skills to poor rural communities that are trying to construct or improve local water and sewer systems. By all accounts (including CSA's), the NDWP program has been, and is, an extraordinary success at a remarkably low cost. The political support for it ranges from Strom Thurmond to George McGovern, as indicated by the attached list of people who have personally contacted us.

After extended negotiations, the CSA funding discussions with NDWP broke down a few weeks ago, and CSA initiated termination procedures with NDWP. Last week, my staff convened the two parties and encouraged them to resume negotiations, this time with the limited objective of reaching agreement on funding sufficient simply to allow the project to survive to the end of the current fiscal year. We, of course, did not direct CSA to fund at any particular level.

As of this Wednesday, the parties had settled some substantive differences, and CSA informed us that the dispute would be satisfactorily resolved. Unfortunately, Grace called me last night to say that CSA would not go above its previously stated funding level of \$1.5 million (the eight month funding level they had been insisting upon all along). For their part, NDWP has reduced its

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E.O. 12356, SEC. 3.4(b)

WHITE HOUSE GUIDELINES, FEB. 24, 1988

BY *Jay* NARS DATE *5/2/90*

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request from \$5.2 million (for twelve months) to \$2.1 million (for eight months). It is my own firm opinion that the final differences in funding levels primarily reflect personality conflicts between Grace Olivarez and the leaders of NDWP. It is clear that the differences in "final offers" on funding will prevent the parties from reaching accord and effectively put NDWP out of business.

Once the latest impasse became clear, I spoke privately with Grace and my staff met with her to make sure that she was aware of the universal support for the program and to impress upon her how much unnecessary political opposition the Administration would suffer if she held to her position to offer no more than the \$1.5 million, a funding level which, on the merits, I consider inadequate. I reiterated that the decision was her's to make, but I also cautioned that she should reflect very carefully before making a decision which would destroy a widely admired project that she, herself, agreed was excellent and sorely needed.

Notwithstanding our conversations, Grace has decided to hold to the \$1.5 million level. I bring the matter to your attention because I consider the decision to be in error, both on the merits and politically, and because we must now be prepared to take the heat for her unnecessary rigidity.

CC: H. Jordan
F. Moore
J. Powell

Senator Ed Muskie (Maine)
Senator Walt Huddleston (Kentucky)
Senator James Abourezk (South Dakota)
Senator Kaneaster Hodges (Arkansas)
Senator George McGovern (South Dakota)
Senator Pat Leahy (Vermont)
Senator Ernest Hollings (South Carolina)
Senator Dale Bumpers (Arkansas)
Senator Harry Byrd (Virginia)
Senator Strom Thurmond (South Carolina)
Senator Robert Morgan (North Carolina)
Senator Lowell Weicker (Connecticut)
Senator Mike Gravel (Alaska)

Governor John D. Rockefeller (West Virginia)
Governor Jerry Apodaca (New Mexico)
Governor James Edwards (South Carolina)
Governor David Pryor (Arkansas)

Congressman George Mahon (Texas)
Congressman Robert Gammage (Texas)
Congressman Bo Ginn (Georgia)
Congressman Herb Harris (Virginia)
Congressman John Krebs (California)
Congressman Bob Daniel (Virginia)
Congressman Kenneth Holland (South Carolina)
Congressman Nick Rahall (West Virginia)
Congressman Caldwell Butler (North Carolina)
Congressman Bill Alexander (Arkansas)
Congressman Ray Thornton (Arkansas)
Congressman Tom Steed (Oklahoma)
Congressman John Breckinridge (Kentucky)
Congressman Jim Guy Tucker (Arkansas)

A. J. Cooper (Chairman, National Conference of Black Mayors;
Mayor of Pritchard, Alabama)
Bill Clinton (Attorney General of Arkansas)
Willard Whitaker (Mayor of Madison, Arkansas)
Cabell Brand (TAP Board of Directors, Roanoke, Virginia)
Henry Howell (Norfolk, Virginia)
Charles Jenkins (Coordinator of Federal Programs, Virginia)
Manuel J. Gonzalez (Catholic Family and Children's
Services, Inc., Texas)
Sister Dolores Girault (Buena Vista-Losoya Water Project, Inc.,
Texas)
Sister Grace Berger (San Antonio, Texas)
Robert McNichols (Pulaski County, Virginia)
Derrick Greese, Pennsylvania County Community Action Agency

PLUS: More than 50 phone calls from Congressional staff
aides and other public officials.

1370

THE WHITE HOUSE
WASHINGTON

March 13, 1978

The Vice President
Hamilton Jordan

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

RE: STATUS REPORT ON DNC
OPERATIONS

THE WHITE HOUSE
WASHINGTON

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| | FOR INFORMATION |
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| | AGENCY REPORT |
| | CAB DECISION |
| | EXECUTIVE ORDER |

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

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| | VOORDE |
| | WARREN |

THE PRESIDENT HAS SEEN

**DEMOCRATIC
NATIONAL COMMITTEE**

1625 Massachusetts Ave., N.W. Washington, D.C. 20036 (202) 797-5900

John C. White
Chairman

MEMORANDUM
March 10, 1978

TO: PRESIDENT CARTER
FROM: JOHN WHITE
RE: STATUS REPORT ON DNC OPERATIONS

Since assuming the chairmanship, I have concentrated on five major tasks: consolidating and reorganizing the national committee's operations; raising money; providing technical services and training to major Democratic campaigns; making initial preparations for the Mid-Term Conference; and expanding communications with the major constituencies of the party. What follows is a brief description of the principal actions taken in each of these areas during the past six weeks.

CONSOLIDATION AND REORGANIZATION:

1. Expenditures totaled \$696,066 in January, were cut to \$415,899 in February, and are projected to be \$352,000 in March, with further cuts underway.
2. The monthly payroll has been reduced from \$125,000 to \$97,000. The eventual goal is a monthly payroll of only \$75,000.
3. A complete audit of the DNC's books has been undertaken, with a final report expected some time in April.
4. A favorable ruling was recently made by the Federal Election Commission to a DNC request that contribution limitations not apply to liquidation of that portion of the debt incurred prior to 1975. \$100,000 of the debt has been retired in the past six weeks.

FUNDRAISING:

1. Charles Manatt of California will soon be designated as the new Finance Chairman, replacing Jess Hay of Texas.
2. During the month of February our Sustaining Member program for small donors received pledges from 1121 new individuals, increasing our total sustaining membership by approximately 25%.
3. An expenditure of \$85,000 has been authorized for a major direct mail fundraising appeal soliciting donations to the "Humphrey Leadership Fund", and an expenditure of \$22,000 has been authorized for a new prospect mailing.

CAMPAIGN ACTIVITIES:

1. Three campaign training schools for major federal and statewide candidates

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have been held in Washington, Memphis, and Hartford during the past six weeks.

2. Regular meetings have been held with the U.S. House, U.S. Senate, and gubernatorial candidates in an effort to provide guidance in such areas as campaign planning, fundraising, polling, opponent research, and interest group solicitation.

3. An analysis of the accomplishments of the President and the Democratic Congress was recently sent to all Democratic members of Congress, all major identified 1978 Democratic candidates, all DNC members, and all NFC members.

4. Background information on federal issues and Presidential initiatives is being prepared in several additional forms for distribution later this spring.

5. Information about political consulting firms, potential campaign staffers, and radio actuality production is being furnished to Democratic candidates.

POLITICAL LIAISON AND PUBLIC OUTREACH:

1. The DNC has been providing trip books and political briefings for major Administration officials.

2. Tapes of the President's news conferences and statements are being distributed periodically to national and regional radio networks from DNC headquarters. In addition, radio actualities are being prepared regularly for many Democratic Congressmen by DNC staff.

3. Political liaison activities with other constituencies include the recent distribution of a political survey to ethnic group leaders and editors, and DNC involvement in the effort to secure ratification of ERA.

MID-TERM CONFERENCE:

1. Research on the 1974 and 1976 Democratic convention activities has recently been completed, and logistics planning for the 1978 conference will be completed later this month.

2. Deliberations on the purpose, program, and agenda for the Mid-Term Conference will begin later this month. I plan to appoint an Arrangements Committee for the conference in the near future.

CALENDAR OF UPCOMING EVENTS:

1. The Executive Committee and Puerto Rican Task Force will both meet in Washington March 16. At this time the Executive Committee will receive the final report of the Winograd Commission. Later in the week, the Democratic State Chairmen's Association will meet in Memphis, Tennessee, March 17 and 18.

2. The Executive Committee and full DNC are scheduled to meet in Washington June 8 and 9 respectively to vote on the delegate selection rules proposed by the Winograd Commission.

THE WHITE HOUSE
WASHINGTON

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- Strauss. Linowitz - G.berg

- Begun - date firm

- Ribicoff / Weizman

- Rhodesia - Smith → S.A.

- China - VP

- Turkey - next week > Par, 15/8

- SALT

- SA - Cy

Cabinet Meeting 3/13/78

THE WHITE HOUSE

WASHINGTON

- > Corcoran reception & DNC
- > Mid East - Begin visit
- > Horn
- > Rhodesia
- > CUN Eisenhower - speech
- > Next Monday - no cab mty
- > Coal strike
- > Energy legis
- > H-H
- > Soc Sec
- > N.C. desegregation - mty Fri
- > Value of \$
- > Fastener case
- > Unemp - 6 1/2%

Panama

Postal reform

- > French election = Left < 49% Soc
- > Reduce personnel in embassies
- > McIntyre re DCI Budget
- > NSC mty re China
- > IFI's - Treasury lead \$35?

THE WHITE HOUSE
WASHINGTON

- House + 2% B Senate + 1% B ^{Refuse Budget}
- H C Duncan in Korea - Mil exercises
Weizman - talks etc
-
- J '78 Capital expend plans - problem
Oil tanker initiatives - + in Europe
- B Truck fuel econ - Wed. announcement
Braniff - 3/31 deadline
-
- J Civil Rts reorg = +
Civil Service additional
Outlay - \$82 B, shortfall now \$92!
-
- B EC VP re Ag = Key to MTN
Japanese delegation in town
-
- J N Gas supplies shaky - Spring in time
Budget pressures on energy
Cut off on CRBR = compromise
Compromise needed today
N gas legislation
COET needs support - Long +
N gas Alaska pipeline - reorg

- THE WHITE HOUSE -
- WASHINGTON -

- P Flood plain construction - Eagleton
Delegation of authority to act
- B Farm strikers back in town Wed
All time record h-3h - farm family income
- G Civil Hs hearings
Food stamps legal opinion
- M FRG/US statement = 2X swap.
US IMF reserve = DM purchase
IFI - Long "mkt" = AID Recog
NYC - progress in Cong House + Senate -
Tax reform - hearings → SocSec/CoER
- R CETA reauth - objectives met
Simplify, focus programs
- Z Disarmament Conference - important
Eritrea
- HMO - 340 Fortune 500 - 100 Labor
- J Drug law reform
Tobacco - Cancer - Asbestos
CHAPS program - good
- C No projects

THE WHITE HOUSE
WASHINGTON

George Will column

— 3/13/78

THE WHITE HOUSE
WASHINGTON

WHEAT Growers Glenn Moore
As Asst Sec Hathaway pres. (Mo.)

12% set aside

200 mil bushels - farmer reserve

Prices 3/77-\$2.07 9/77-\$2.16 3/78-\$2.98

CCC Export sales 2X = \$1.2B in '78

Emerg food reserve 220 mil bu.

Production 77/78 381 mil tons ↓ 9%

wheat trade 77/78 80 mil T. ↑ 14%

Winter plantings ↓ 14%

Loan \$3.5B Support \$4.5B

Balance of payments

2:00 PM

THE PRESIDENT HAS BEEN

THE WHITE HOUSE

WASHINGTON

March 11, 1978

Meeting with Executive Committee of the
National Association of Wheat Growers

Monday, March 13, 1978

2:00 p.m.

Cabinet Room

FROM: Stu Eizenstat
Lynn Daft

Sh
LD

I. PURPOSE

To discuss the economic situation of wheat producers and to receive the Association's policy recommendations.

II. BACKGROUND, PARTICIPANTS, AND PRESS PLAN

A. Background: This will be your first meeting with the National Association of Wheat Growers, though they requested a meeting several times before. The NAWG is a non-profit organization of 15 state wheat producer associations that was organized in 1950. It is concerned with legislation relating to domestic and foreign market development, research, and public information and education regarding domestically produced wheat. In mid-January, Secretary Bergland spoke before their 28th annual meeting in Wichita, Kansas.

Policy positions taken by the Wheat Growers include the following:

- o Target prices of no less than 80 percent of parity (~~\$4.05 bu.~~) and a loan rate of at least 60 percent of parity (~~\$3.04 bu.~~). This compares with our announced levels of a \$3.00 target price and \$2.25 loan rate for the 1978 crop.
- o Support use of the parity concept but believe that 100 percent of parity should be obtained through the market place.

- o Oppose payment limitations.
- o Support the farmer-held reserve program but propose that producers have the option of renewing their reserve loan for 1 to 5 years and that Government-owned stocks not be sold into the market at less than 180 percent of the loan level (versus 150 percent under current authority).
- o Proposes that producers be permitted to graze-out or harvest as hay set-aside acreage.
- o Support use of land diversion payments if it appears 1978 production will not be decreased by 20 percent.

B. Participants: The NAWG's Executive Committee is comprised of state wheat association presidents from each of the 15 member states (Arizona, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Washington, and Wyoming) and the national officers. List attached. The national officers for 1978 are:

Glenn Moore, Baker, Montana, President
Winston Wilson, Quanah, Texas, Vice President
Jack Fiegenhauer, Spokane, Washington, Secretary/Treasurer
Don Howe, Bonners Ferry, Idaho, Past President
Jerry Rees, Executive Vice President, Washington, D.C.

Secretary Bergland will be represented by Assistant Secretary Dale Hathaway.

C. Press Plan: Photo opportunity when you arrive.

III. TALKING POINTS

(1) The new farm law provides the tools to increase grain prices, if we give it a chance.

-- It appears there will be substantial participation in the set-aside program for wheat--a 12 percent reduction in acreage was reported in the January survey.

-- Farmers have placed nearly 200 million bushels of wheat in the farmer-owned reserve. This is about 60 percent of the 330 million bushels target.

-- Wheat prices have strengthened considerably in recent months. March 8, Kansas City cash wheat closed at \$2.98 a bushel, that's up 31 cents a bushel from March 8, 1977.

(2) We need the help of the National Association of Wheat Growers in encouraging more wheat producers to participate in the reserve and set-aside programs, so that wheat prices will climb to significantly higher levels.

(3) Most of the measures being offered by the Congress will not help U.S. agriculture as much as they're intended to do. These bills would:

-- Renew the criticism that taxpayers are paying farmers not to plant;

-- Threaten recovery of the livestock industry; undermine our position in the IWA negotiations by signaling to other exporters that the U.S. once again is ready to bear the entire burden of reducing production to support the price for all countries; diminish the opportunity to build a farmer-owned reserve, thus keeping us exposed to the likelihood that, in the event of shortage, we may not be able to fulfill our commitment as a world supplier.

(4) Emphasize steps already taken to improve farm income, pointing out the charges that this Administration has not moved aggressively to increase grain exports are not true. We have:

-- More than doubled CCC export sales credits to \$1.7 billion for FY 78.

-- Initiated a stepped up market development program, setting the goal of opening 5 new trade offices in key world grain markets by the end of September.

-- Sought to expand market access through a reduction of trade barriers. Negotiations are underway in several forums--the IWC, MTN, UNCTAD, etc.

-- Sought to ensure the reliability of the United States as a dependable grain supplier by moving aggressively to establish a farmer-owned grain reserve, and guarantee our humanitarian commitments through a special International Emergency Food Reserve of up to 6 million tons (220 million bushels).

-- Liberalized the terms and lowered the interest on farm storage facility loans.

Note: Secretary Bergland will be sending you a memorandum Monday that lays out alternative courses of action for heading-off action by the Congress. The principal options he will probably offer are: a) a paid acreage diversion program, b) an expanded reserve program, and c) higher target prices.

Briefing Paper
WHEAT

World Situation

World wheat production is estimated at 381 million tons in 1977/78, compared with 413 million tons in 1976/77. Of the major production areas, only Eastern Europe and India increased slightly, but Canada, Australia, Argentina, U.S., Western Europe and USSR all declined. Argentine production of 5.2 million tons in 1977/78 is less than half the level of 1976/77. Wheat trade is forecast to reach a record 80 million tons in 1977/78, a 14 percent increase over 1976/77. United States and Canada are expected to account for most of the increase in world trade. Australian exports may increase by a 1 million tons. But Argentine trade is expected to drop sharply. USSR and PRC wheat imports are expected to be up in 1977/78. Brazil also will be importing more this year because of reduced production.

✓ 9%

U.S. Situation

Large supplies continue to dominate wheat markets. January stocks were the largest since the early 1960's, but nearly 40 percent of the total was under the Government price support program. However, wheat prices have been bolstered by large placements under loan, orderly marketing by producers, and strong foreign demand. U.S. farm prices in mid-January averaged around 30 cents above the \$2.25 loan level. This compares to 25 cents below loan early in the season. While prices are expected to rise further, the large supplies will continue to limit advances.

Total wheat use in 1977/78 is projected to increase about 14 percent over last year, but it would still be less than the 1977 crop, so carryover on June 1 could be above last year's 1.1 billion bushels.

The 1978 wheat crop will not be as large as last year's crop. Winter wheat plantings--usually accounting for around three-quarters of the crop--were down 14 percent. On January 1, spring wheat growers indicated they would cut acreage by 5 percent. Durum producers planned to increase plantings nearly a third because of relatively high prices; but other spring growers indicated a 12-percent reduction.

Prices Received by Farmers - All Wheat

| | <u>Sept.</u> | <u>Oct.</u> | <u>Nov.</u> | <u>Dec.</u> | <u>Jan.</u> | <u>Feb.</u> |
|------------|--------------|-------------|-------------|-------------|-------------|-------------|
| Per bushel | \$2.16 | 2.30 | 2.46 | 2.47 | 2.53 | 2.58 |

+42¢

1/ Average sales entire month, February is preliminary.

11:55 AM
THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

March 10, 1978

MEETING WITH REP. FRANK THOMPSON (D-4-NJ)

Monday, March 13, 1978

11:55 a.m. (5 minutes)

The Oval Office

From: Frank Moore

F.M./BR.

I. PURPOSE

To present to the President and Vice President the first volume of the 1976 Presidential Campaign Papers.

II. BACKGROUND, PARTICIPANTS, AND PRESS PLAN

Background: Thompy is chairman of the Committee on House Administration which has published a selection of your speeches, statements, position papers, and question/answer sessions during the 1976 campaign. He will be presenting you with Volume I, "The Presidential Campaign 1976," which covers the period from the announcement of your candidacy for President, December 12, 1974, through the immediate post-election period in November, 1976. The two-part volume also includes your description of the principal issues in the campaign and your personal assessment of your victory.

Published later this spring will be Volume II which contains former President Gerald Ford's major campaign documents and Volume III which deals exclusively with the Carter/Ford debates and those of vice presidential candidates, Senators Walter Mondale and Robert Dole.

Participants: The President, the Vice President, Rep. Frank Thompson, Frank Moore, and Bill Cable.

Press Plan: White House Photographer.

III. TALKING POINTS

1. Thompy is chairman of the Labor-Management Relations Subcommittee (Education and Labor Committee) and will be your principal advisor should you need to seek congressional action in the coal situation. Should the occasion arise, express your continued support of Thompy's help in the coal negotiations.

THE WHITE HOUSE

WASHINGTON

March 10, 1978

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Monday, March 13, 1978
11:55 a.m. (5 minutes)
The Oval Office

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Press Plan: White House Photographer.

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Should the occasion arise, express your continued support of Thompy's help in the coal negotiations.

THE WHITE HOUSE
WASHINGTON

March 13, 1978

Frank Moore

The attached was returned in
the President's outbox and
is forwarded to you for
delivery.

Rick Hutcheson

cc: Zbig Brzezinski

RE: LETTER TO CONG. LEDERER ON
CHAPLAINS

*2B - was given copy ✓
letter to forward to
See Down*

THE WHITE HOUSE
WASHINGTON

| | |
|---|---------------------------|
| | FOR STAFFING |
| | FOR INFORMATION |
| / | FROM PRESIDENT'S OUTBOX |
| | LOG IN/TO PRESIDENT TODAY |
| | IMMEDIATE TURNAROUND |

cc Brown

| ACTION | FYI |
|--------|---------------------------------------|
| | MONDALE |
| | COSTANZA |
| | EIZENSTAT |
| | JORDAN |
| | LIPSHUTZ |
| / | MOORE - <i>delivered</i> <i>Asker</i> |
| | POWELL |
| | WATSON |
| | McINTYRE |
| | SCHULTZE |

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| | ENROLLED BILL |
| | AGENCY REPORT |
| | CAB DECISION |
| | EXECUTIVE ORDER |

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

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| | ARAGON |
| | BOURNE |
| / | BRZEZINSKI |
| | BUTLER |
| | CARP |
| | H. CARTER |
| | CLOUGH |
| | FALLOWS |
| | FIRST LADY |
| | HARDEN |
| | HUTCHESON |
| | JAGODA |
| | GAMMILL |

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| | KRAFT |
| | LINDER |
| | MITCHELL |
| | MOE |
| | PETERSON |
| | PETTIGREW |
| | POSTON |
| | PRESS |
| | SCHLESINGER |
| | SCHNEIDERS |
| | STRAUSS |
| | VOORDE |
| | WARREN |



THE SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

March 10, 1978

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Lederer Inquiry on Chaplains

You asked for my comments on the attached letter from Representative Lederer which asserts that "there are growing contradictions and controversy" about "the hiring and firing of military Chaplains." He was not any more specific than that.

As nearly as I have been able to determine, there is no large-scale problem. There is one particularly unhappy chaplain who was separated from the Army after being passed over twice for promotion; he is believed to have instigated the Lederer letter as part of a personal campaign. There are some relatively small differences in the way the Services handle the personnel management of their chaplains; in general these reflect differences in their personnel policies with respect to all officers. I am not aware of any need to change them.

I recommend that you not pursue the matter further. Enclosed is a response if you care to answer Mr. Lederer; alternatively, I can arrange for an answer to him to be provided by this Department.

Harold Brown

Enclosure

THE WHITE HOUSE

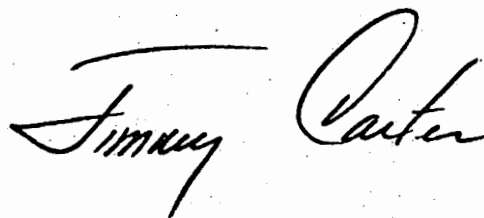
WASHINGTON

March 13, 1978

To Congressman Raymond Lederer

I have called your letter regarding armed forces chaplains to the attention of Secretary of Defense Brown. I am sure that if there are any specific aspects of chaplain policy that you care to bring to his attention, he will give your views every consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned below the word "Sincerely,".

The Honorable Raymond F. Lederer
U.S. House of Representatives
Washington, D.C. 20515

*He has looked into it &
can answer any questions.
J*

SUMMARY OF CONGRESSIONAL MAIL TO THE PRESIDENT

DATE: FEBRUARY 14, 1978

PAGE: - 3-

| FROM ----- | SUBJECT ----- | DISPOSITION ----- | COMMENTS ----- |
|---|---|--|----------------------------|
| REP. ROBERT MCEWEN REPUBLICAN - NEW YORK | FORWARDS LETTERS FROM LOCAL OFFICIALS AND PETITIONS IN SUPPORT OF LOCATING 2ND INFANTRY DIVISION AT FORT DRUM, NEW YORK. | ACKNOWLEDGED BY FM REFERRED TO IGR | |
| REP. RAYMOND LEDERER DEMOCRAT - PENNSYLVANIA | CONCERNED ABOUT INCONSISTENCIES BETWEEN THE ARMED SERVICE BRANCHES IN THEIR POLICIES ON THE HIRING AND FIRING OF CHAPLAINS; BELIEVES AN OVERSIGHT INVESTIGATION IS CALLED FOR. | ACKNOWLEDGED BY FM REFERRED TO MILITARY OFFICE | <i>Get H Brown comment</i> |
| REP. TOM HAGEDORN | CONCERNED ABOUT EXCESSIVE IMPORTS OF CB RADIOS. | ACKNOWLEDGED BY FM REFERRED TO STRAUSS | |
| REP. JOHN BUCHANAN REPUBLICAN - ALABAMA | URGES PROTECTION FOR DOMESTIC FASTENER INDUSTRY. | ACKNOWLEDGED BY FM REFERRED TO STRAUSS | |
| REP. ANDY JACOBS | SUPPORTS SUGGESTION THAT AN INSURANCE REGULATOR BE INCLUDED ON COMMISSION ON ANTITRUST. | ACKNOWLEDGED BY FM REFERRED TO WH PERSONNEL | |
| EDWARD ELSON SENATE CHAPLAIN | URGES PROCLAMATION OF DAY OF PRAYER; SUGGESTS APRIL 22, SINCE CONTINENTAL CONGRESS PROCLAIMED IT A "DAY OF FASTING, HUMILIATION AND PRAYER." | REFERRED TO BILL NICHOLS | |

THE WHITE HOUSE
WASHINGTON

March 13, 1978

Jack Watson

The attached was returned in the President's outbox today and is forwarded to you for your information. The signed originals of the letters were given to Stripping for mailing.

Rick Hutcheson

RE: LETTERS TO BOB HALL AND
BOB EMBRY

cc: Stripping

THE WHITE HOUSE
WASHINGTON

March 2, 1978

*Good
J*

MEMORANDUM FOR THE PRESIDENT

FROM: JACK WATSON *Jack*

The attached memorandum to me from Bob Hall and Bob Embry describes the kind of innovative interagency coordination and cooperation we are trying to promote. I thought you would like to see it and perhaps to write a note to Bob Hall and Bob Embry commending their work. You might also mention it at the Cabinet meeting. The more the lead people in the Agencies know of your genuine interest in their taking this sort of initiative, the more they will do it.

Attachment

TWO SIGNATURES REQUESTED

THE WHITE HOUSE

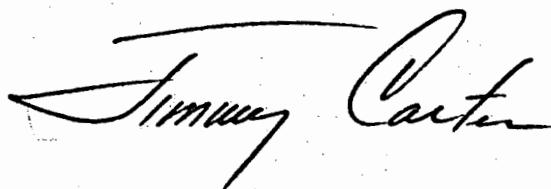
WASHINGTON

March 10, 1978

To Robert Hall

Jack Watson has informed me of the progress which you have made in collaborating to produce consistent regulations, investment strategies and integrated review of grant applications. These are the kinds of initiatives which will ultimately help us succeed in making government work better. Keep up the good work.

Sincerely,

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Mr. Robert T. Hall
Assistant Secretary
for Economic Development
U. S. Department of Commerce
Room 7800
Washington, D.C. 20230

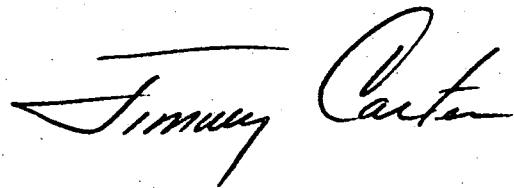
THE WHITE HOUSE
WASHINGTON

March 10, 1978

To Robert Embry

Jack Watson has informed me of the progress which you have made in collaborating to produce consistent regulations, investment strategies and integrated review of grant applications. These are the kinds of initiatives which will ultimately help us succeed in making government work better. Keep up the good work.

Sincerely,

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Mr. Robert C. Embry, Jr.
Assistant Secretary for
Community Planning and Development
U. S. Department of Housing
and Urban Development
Room 7100
Washington, D.C. 20410

February 24, 1978

1978 FEB 24 PM 6 49

MEMORANDUM TO JACK WATSON
ASSISTANT TO THE PRESIDENT
FOR INTERGOVERNMENTAL RELATIONS

From Robert T. Hall *RTH*
Assistant Secretary
for Economic Development

Robert C. Embry, Jr. *RCE*
Assistant Secretary for
Community Planning and Development

On February 15, 1978, we and our immediate staffs met to continue what we feel have been fruitful discussions aimed at increasing coordination between our two Agencies. We believe this effort will significantly increase the effectiveness of our assistance programs as well as lessen the burden on local governments requesting assistance in addressing their economic development problems from more than one Federal Agency.

The range of topics discussed is indicated by the attached agenda and the following summary.

I. Consistency of Regulations -

The various areas in which the Regulations will be compared were identified by a staff report (attached). The report includes a timetable for completion of a memorandum in each area, identifying inconsistencies and recommending appropriate actions to be taken, as well as a timetable for a final decision by the Agencies. Memoranda on implementation of OMB Circular A-95 and Labor Standards (Davis-Bacon Act, etc.) are both nearly complete and action on the recommendations should follow within a few weeks.

II. Investment Plans -

It was agreed that HUD and EDA should use common criteria for a joint review of city investment plans. As a first step towards that goal, EDA will make available to HUD within the next ten days a draft paper describing criteria for assessing investment plans and guidelines for cities to use in creating their plans.

III. Project Profiles -

It was agreed that the Agencies will exchange information concerning UDAG and EDA Public Works projects for comment by the other Agency and, if the other Agency so wishes in a particular case, for participation in project development or approval conferences. EDA has developed a project profile which it will use for this purpose, and HUD will provide EDA with copies of the face sheet and budget summary sheet from the UDAG application (attached). Either Agency may then ask for further information on particular projects.

IV. Joint Training -

Bob Embry and other HUD personnel will brief EDA's Economic Development Representatives and other regional staff on April 6, during their conference in Washington. HUD will also provide the Representatives with written material describing relevant HUD programs. EDA has prepared similar information for use by HUD personnel.

V. Status Reports -

HUD and EDA are joining with SBA to sponsor the National Development Council. Joint training with respect to this new program is being arranged for Regional personnel. HUD and EDA are also jointly sponsoring workshops for the U. S. Conference of Mayors.

Attachments

2:30 PM

THE WHITE HOUSE

WASHINGTON

March 9, 1978

MEETING WITH SENATOR RICHARD SCHWEIKER

Monday, March 13, 1978

2:30 PM (15 minutes)

The Oval Office

From: Frank Moore *J.M.V.*

I. PURPOSE

To discuss the Panama Canal Treaties.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: Senator Schweiker is a member of the following Committees: Committee on Appropriations; Subcommittee on Foreign Operations, Ranking Minority Member; Subcommittee/Legislative, Ranking Minority Member; Committee on Human Resources; Subcommittee on Health-Scientific Research, Ranking Minority Member; Select Committee on Nutrition and Human Needs.

The Senator has been one of the most quiet members of the Senate on the Panama issue. Although he has consistently voted against us on amendments, he has yet to take the floor to denounce the Treaties. He has avoided discussing the issue with Baker, until this morning. He attended a meeting with Heinz and Bellmon at Baker's request. Senator Baker reports that Schweiker was far less negative than he had expected, and encouraged you to meet with Schweiker. Senator Schweiker did raise a series of economic questions, as well as the post 2000 defense capacity of the Panamanians. Although Senator Baker expects that Senator Schweiker is still inclined to vote against the Treaties, he believes we still have a shot at him. We agree with this assessment, although we have little to base it on beyond the meeting with Baker.

- B. Participants: The President
Senator Schweiker

C. Press Plan: White House Photo

III. TALKING POINTS

1. You should stress to Senator Schweiker the importance of bipartisan foreign policy. Stress the implications of Panama vis-a-vis other trouble spots in the world.
2. Despite his apparent turn to the right, the Senator has remained fairly moderate on foreign policy issues. Prior to 1976, he was considered a liberal. You should praise him for his past bipartisan support of foreign policy issues, and underscore the importance of Panama to your foreign policy initiatives.
3. Stress to Senator Schweiker that although undesirable, you would send troops to Panama to defend the Canal, if necessary. Cautiously explain to him that we expect disruptions in Panama if the Treaties are rejected and that the repercussions throughout Latin America could be devastating. Emphasize the extent of support among Latin American leaders for the Treaties and remind him that our European allies, the British most recently, endorse the Treaties.
4. You should keep this discussion in the foreign policy context. If we have any chances of getting Schweiker at all, it will be because he still has internationalist fibers left in his soul. Some Republicans believe Schweiker is looking to move back from the right to a more moderate position. If he is to do this, an international issue such as Panama would be the most likely place to begin his journey home. In his heart of hearts, Senator Schweiker is still a moderate and this should work to our advantage.

THE WHITE HOUSE
WASHINGTON

March 13, 1978

Jody Powell

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

BLACK NEWS MEDIA BRIEFINGS ON
FOREIGN TRIP

THE WHITE HOUSE
WASHINGTON

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|-------------------------------------|---------------------------|
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| <input checked="" type="checkbox"/> | FROM PRESIDENT'S OUTBOX |
| <input type="checkbox"/> | LOG IN/TO PRESIDENT TODAY |
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| ACTION | FYI | |
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| <input type="checkbox"/> | ENROLLED BILL |
| <input type="checkbox"/> | AGENCY REPORT |
| <input type="checkbox"/> | CAB DECISION |
| <input type="checkbox"/> | EXECUTIVE ORDER |

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

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| <input type="checkbox"/> | ARAGON |
| <input type="checkbox"/> | BOURNE |
| <input type="checkbox"/> | BRZEZINSKI |
| <input type="checkbox"/> | BUTLER |
| <input type="checkbox"/> | CARP |
| <input type="checkbox"/> | H. CARTER |
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| <input type="checkbox"/> | STRAUSS |
| <input type="checkbox"/> | VOORDE |
| <input type="checkbox"/> | WARREN |

THE PRESIDENT HAS SEEN

THE WHITE HOUSE
WASHINGTON

March 13, 1978

Jody
J

MEMORANDUM FOR THE PRESIDENT

FROM: Jody Powell *JP*

SUBJECT: Black News Media Briefings on Foreign Trip

As you prepare to visit Africa, I believe it is very important that you meet briefly with about 30 black journalists to explain to them personally your purposes for making the trip.

Your role in the briefing would be a 20-minute visit with these journalists in the Cabinet Room after they had met for 40 minutes with Zbigniew Brzezinski and Andy Young, if he is in the country.

To assure that articles resulting from this meeting appear before or at the time of your departure, I suggest the briefing occur in mid- or late afternoon on Tuesday, March 21, if at all possible.

Approved _____ Disapproved ✓

*Let them meet
Zbig, Andy, you -*

For the best possible communication with Black Americans following the trip, I recommend you videotape a half-hour interview with the syndicated television program "Black Perspective in the News" the week after your return. This program appears on more than 100 stations nationwide.

Approved ✓ Disapproved _____

WASHINGTON

DATE: 13 MAR 78

FOR ACTION: TIM KRAFT

INFO ONLY: BUNNY MITCHELL

FRAN VOORDE

SUBJECT: POWELL MEMO RE BLACK NEWS MEDIA BRIEFINGS ON FOREIGN
TRIP

+++++
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: +
+++++

ACTION REQUESTED:

STAFF RESPONSE: (✓) I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

I would recommend that heavy emphasis be placed on black owned & black-oriented radio station representations for pre-trip briefing. Also, "mini-stories" should be prepared & distributed for print people -- preferably camera-ready to assure accurate articles are run on a timely basis.

In addition to videotaping following trip, I think it would be good for the P. to meet with a cross-section of black leaders who are concerned with our office policy and have expressed interest in meeting with the P. on this subject.

B.

THE WHITE HOUSE
WASHINGTON
March 13, 1978

Secretary Schlesinger

The attached was returned in the President's outbox today and is forwarded to you for your information. The signed original has been given to Bob Linder for appropriate handling.

Rick Hutcheson

cc: Bob Linder

RE: NUCLEAR WASTE MANAGEMENT

1338



Department of Energy
Washington, D.C. 20585

March 9, 1978

MEMORANDUM FOR:

THE PRESIDENT

FROM:

JIM SCHLESINGER

SUBJECT: Nuclear Waste Management

On December 12 I wrote you concerning plans for the formulation, on a high-priority basis, of a comprehensive Administration Nuclear Waste Management Policy and implementing programs.

The initial Department of Energy (DOE) review of existing waste management programs has been completed and is ready for release. In my previous memorandum to you, I indicated that, after completion of this report, DOE would "initiate an intergovernmental and public discussion process that will provide a full opportunity to structure the proposed policy before it is presented to you for decision."

To implement this, it would be appropriate to form an interagency Nuclear Waste Management Task Force to structure the issues for your decision, determine necessary legislation, budgetary impact, and specify actions required for program implementation. As part of this interagency review, a parallel effort would be made to include appropriate participation by Members of Congress, State officials, industry, and concerned members of the public. The major issues that would be addressed include:

1. The role of 'away from reactor' storage in implementing the commercial spent fuel policy you announced in October;
2. Steps toward selection and construction of a national waste repository for the disposal of high-level nuclear waste and/or spent fuel;

3. Level and scope of required environmental review;
4. Plans for disposition of existing commercial waste (such as that at West Valley, New York), and disposition of defense high-level waste; and
5. The impact on waste management of a possible future decision to permit reprocessing.

We would hope to release the report and announce the Task Force simultaneously. The Task Force would begin deliberations on March 15 and complete its effort by October 1, in time to impact the fiscal 1980 budget. A suggested memorandum establishing the Task Force is attached for your signature.

Attachment:
Proposed Memorandum from the
President

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR

THE SECRETARY OF STATE
THE SECRETARY OF THE INTERIOR
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF ENERGY
CHAIRMAN, COUNCIL ON ENVIRONMENTAL
QUALITY
ADMINISTRATOR, ENVIRONMENTAL PROTECTION
AGENCY
ACTING DIRECTOR, OFFICE OF MANAGEMENT
AND BUDGET
DIRECTOR, OFFICE OF SCIENCE AND
TECHNOLOGY POLICY
ASSISTANT TO THE PRESIDENT FOR DOMESTIC
AFFAIRS AND POLICY
ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY AFFAIRS

SUBJECT:

Interagency Nuclear Waste Management
Task Force

By this memorandum I am establishing an interagency Nuclear Waste Management Task Force to formulate recommendations for establishment of an Administration policy with respect to long-term management of nuclear wastes and supporting programs to implement this policy. I have asked the Secretary of Energy to chair this Task Force.

The Department of Energy is issuing a draft report setting forth preliminary views on key issues in the waste management area. This report should serve as the basis of initial discussion for the Task Force. Areas which should be considered, leading to establishment of an Administration policy for nuclear waste management, include wastes from commercial nuclear power operations, existing low-level, transuranic (TRU), and high-level defense wastes. In addition, on-going programs should be reviewed to assure that the policy is implemented in a timely manner. Attention should also be given to the necessity of legislation,

environmental assessment, support for our non-proliferation objectives, and budgetary impacts including potential involvement in waste management programs by private industry.

The deliberations of the Task Force should include opportunity for appropriate participation by the interested public, industry, States, and Members of Congress.

I am directing that the activities of the Task Force be initiated by March 15 and final recommendations should be completed by October 1, 1978.

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink on a light background. The first name "Jimmy" is written in a fluid, connected style, and the last name "Carter" is also in cursive, with a long, sweeping tail that extends to the right.

T H E W H I T E H O U S E

DATE: 10 MAR 78

PLEASE NOTE OTHER COMMENTS BELOW:

THE WHITE HOUSE
WASHINGTON

March 13, 1978

Stu Eizenstat
Charles Schultze

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: BANKING REGULATORY CONSOLIDATION

cc: Jim McIntyre

THE WHITE HOUSE
WASHINGTON

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| | FOR STAFFING |
| | FOR INFORMATION |
| / | FROM PRESIDENT'S OUTBOX |
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| / | | McINTYRE - <i>740 c only</i> |
| / | | SCHULTZE |

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| | ENROLLED BILL |
| | AGENCY REPORT |
| | CAB DECISION |
| | EXECUTIVE ORDER |
| | Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day |

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THE WHITE HOUSE
WASHINGTON.

Stu
J

1-18-78

Charlie
Stu

Assess for me:

- a) S 71
- b) Federal Bank Commission
bill - to consolidate
bank regulation which
is now under 3 agencies

J.C.

ATTACHMENTS:

TAB A - Schultze analysis of S. 71
TAB B - Eizenstat memo on Banking Regulatory Consolidation
TAB C - Eizenstat/Schultze memo on Banking Regulatory Consolidation

THE WHITE HOUSE

WASHINGTON

March 13, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: Jody Powell *JP*

SUBJECT: Black News Media Briefings on Foreign Trip

As you prepare to visit Africa, I believe it is very important that you meet briefly with about 30 black journalists to explain to them personally your purposes for making the trip.

Your role in the briefing would be a 20-minute visit with these journalists in the Cabinet Room after they had met for 40 minutes with Zbigniew Brzezinski and Andy Young, if he is in the country.

To assure that articles resulting from this meeting appear before or at the time of your departure, I suggest the briefing occur in mid- or late afternoon on Tuesday, March 21, if at all possible.

Approved _____ Disapproved _____

For the best possible communication with Black Americans following the trip, I recommend you videotape a half-hour interview with the syndicated television program "Black Perspective in the News" the week after your return. This program appears on more than 100 stations nationwide.

Approved _____ Disapproved _____

mtg. w/ Blk. leaders - report on trip

*copying media
+ materials
radio - most important
taping should be
permitted
- Not under
WMA*

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

March 8, 1978

ok
J

MEMORANDUM FOR THE PRESIDENT

FROM: Charlie Schultze ^{CLS}

SUBJECT: Bank Regulatory Bill S. 71

This memorandum provides background on Senator Proxmire's bill S. 71, a "safe-banking" bill to amend various aspects of bank regulation. Consideration of S. 71 prompted submission of several much more complex bills in the House last fall. The Treasury Department has been involved in negotiations with Congressman St. Germain (principal author of the more complex bills) and members of the staff of the House Banking Committee. The Treasury proposal for a compromise position is currently being circulated by OMB for interagency clearance and we shall report to you on that when the clearance process is completed. This memorandum is confined to the Senate bill.

S. 71, which was introduced by Senator Proxmire in January 1977 and passed the Senate on August 5, 1977, strengthens the powers of bank regulators in several respects:

- o Civil money penalties are provided for violations of sections of the Federal Reserve Act pertaining to bank loans to insiders and to affiliated institutions, for violations of reserve requirements and for violations of limits on loans to one borrower and on indebtedness of national banks.
- o Authority is provided to all financial regulatory agencies to take cease and desist actions against persons participating in the affairs of a financial institution in the event of practices that would weaken the institution. Authority is also provided for removal of officers or directors for breach of fiduciary duty.
- o The Federal Reserve and the Federal Savings and Loan Insurance Corporation (FSLIC) are provided authority to force a holding company with a financial institution subsidiary to divest itself of any other subsidiaries

which pose a threat to the soundness of the financial institution.

- o FSLIC is authorized to make loans to or purchase assets of an insured savings and loan association that is failing.

In addition:

- o Interlocking directorates between large depository institutions, or small ones in the same geographical area, are prohibited.
- o Minor "housekeeping" provisions strengthen the powers of FDIC.
- o A conflict of interest section prohibits members of the boards of the financial regulatory agencies from holding any position with, or stock ownership in, a financial institution or a financial institution holding company while on the board, or for a period of two years after leaving the board, unless they had served a full term.
- o A three member Board is created for the National Credit Union Administration.

These measures seem highly desirable and, in a number of instances, were specifically requested by the financial regulators on whose behalf Senator Proxmire introduced the bill. The Administration testified in favor of S. 71.

We believe that it would be highly desirable to have a "safe-banking" bill enacted by this Congress that would give the bank regulators the increase in powers that they have requested. A few additional provisions might reasonably be added to S. 71. The chances of enactment will be severely reduced, however, if a large number of highly complex and/or controversial provisions are added to the bill in the House. It is for this reason that the Treasury has been attempting to work out with Congressman St. Germain an acceptable compromise that the Administration could support in the House.

We will try to see that the clearance process of Treasury's proposed compromise is expedited and will report to you concerning that proposal when the clearance process is completed.

B

ADMINISTRATIVELY CONFIDENTIAL

THE WHITE HOUSE
WASHINGTON

March 9, 1978

*Stu -
ok for now*

J

*(I have no aversion
to a study)*

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*

SUBJECT: Attached Memorandum on
Banking Regulatory Consolidation

CEA drafted the attached memorandum immediately following your meeting with Charlie last week, but its submission was delayed until OMB had finalized its recommendations. We believe it would have been inappropriate not to reflect OMB's views, partially because this is a reorganization question, and partially because the issue raises delicate problems for OMB, which are described below.

The attached memorandum recommends that at this time the Administration not conduct a "study" of (1) the set of issues involving the "safe and soundness" of the banking system which purportedly argue for consolidation, and (2) possible remedies to those problems, including Senator Proxmire's consolidation proposal. That is the recommendation of CEA, OMB and Treasury, and I would accept their decision. However, CEA and OMB also agree with my strong view that failing to conduct a study entails certain risks, which they wanted to be submitted to you confidentially, and which thus are not reflected in the attached "formal" memorandum.

These risks are:

-- The consolidation issue is Proxmire's highest legislative priority. Ribicoff is closely allied to Proxmire on this issue, and Ribicoff may push Jim McIntyre hard on this issue during Jim's confirmation hearings. Jim would prefer this short-term problem to undertaking a study which would not, in his view, produce major legislative recommendations.

-- Although Bert Lance was in no way involved in discussions of this issue, it is generally believed that in the past he opposed consolidation, and we might be vulnerable to criticism from Administration critics that the decision against a study reflected either (1) a very timid attitude

*I don't
see that
Bert
is a
factor*

toward "safe and sound" banking issues, or (2) a particular sensitivity to Bert's views on this issue. The media, and the New York Times particularly, have taken a growing interest in the purported weaknesses of the banking system and its regulatory structure. While there is legislation addressing these "weaknesses" under Congressional review and endorsed by the Administration, there is exposure to criticism for avoiding a study in an area where there is significant Congressional support for further reform.

-- If there were to be a significant international economic downturn, serious weaknesses among a number of the nation's largest banks would be exposed. While the Comptroller of the Currency and the Fed would probably take actions to avert insolvency for the nation's major banks, weaknesses in the banking system would be apparent. Under those extreme circumstances, we would be most vulnerable to Proxmire's charge that we had tolerated a weak regulatory structure which had demonstrably failed to exercise adequate control over the banking industry.

On the merits, we seriously doubt that the problems affecting the "safe and soundness" of the major commercial banks are caused by the present regulatory structure. However, there is a causal relationship in the minds of Proxmire and other supporters of consolidation, and you should be sensitive to this issue re-emerging in a more serious context if economic conditions significantly worsened.

While I personally have no opposition to a "study," in view of the reluctance of the three relevant agencies to initiate this study, I would concur with the recommendation of CEA, OMB and Treasury that no study be undertaken at this time.

C

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

March 8, 1978

MEMORANDUM FOR THE PRESIDENT

From: Stu Eizenstat *Stu*
 Charlie Schultze *CLS*

Subject: Consolidation of Commercial Bank Regulatory
 Functions into a Single Federal Banking Commission

The idea of consolidating bank regulatory functions into a single Federal Banking Commission has the strong endorsement of Senator Proxmire and the staff of the Senate Banking Committee (although probably not a majority of the Committee members) and the basic idea (not the details of Senator Proxmire's specific proposal) has also been endorsed in a report by the Senate Committee on Governmental Affairs.

Under current law, commercial banks can be chartered either nationally or by states. National banks are regulated in most respects by the Comptroller of the Currency and must be members of the Federal Reserve System. State banks may be members of the Federal Reserve System, in which case the major Federal regulatory oversight is in the Fed. State nonmember banks that are insured are regulated at the Federal level by the FDIC.

This crazy-quilt pattern grew up through historical accident. It has been cited by some as an example of the need for reorganization and consolidation in the Federal Government. It has undoubtedly entailed some measure of inefficiency in the regulatory process and may have occasioned undesirable practices in markets served by commercial banks. Nevertheless, it has functioned since the great depression to avert the kind of cumulative financial crises that threaten overall economic stability.

Whether bank regulation would have been superior if it had been lodged in a single agency is debatable. If a single Federal regulatory agency were to become "captive" of the banking industry or some particular part of it, the end result could be worse than the results of the existing system. On the other hand, some pressures in the direction of looser regulation or opportunities for banks to evade restrictions might be avoided. *important*

The basic arguments for consolidating the regulatory function into a single commission are (a) that there is inefficient overlapping of regulatory jurisdiction and, at the same time, the possibility for activities needing regulation to "slip between the cracks," and (b) that banks can choose their regulator, while the regulators can compete for clientele by accommodative regulation. Moreover, during the first half of the 1970s a number of questions arose about the safety and soundness of the commercial banking system.

- 1) Are banks adequately capitalized to protect their operations in event of losses?
- 2) Are banks making sound judgments about the risks entailed in a rapidly growing volume of foreign lending?
- 3) Is regulatory vigilance adequate to protect the soundness of banks against insider abuses, inappropriate takeovers, involvement in excessively speculative real estate transactions (some of them prompted by tax-preference provisions of the tax code which were partially corrected in 1976 legislation and which your tax proposals will further ameliorate?)
- 4) Are merger and holding company regulations being administered so as to prevent anti-competitive developments?

Supporters of consolidation allege that a single Federal bank regulatory agency is needed to deal more adequately with these problems.

The question arises as to what the Administration's priorities should be in regard to financial regulatory issues. Several considerations are relevant:

- o The problems of safety and soundness of the banking industry are not as critical as they were several years ago. Problems have been shaken out, banks have come to recognize and reduce certain risks, the regulatory environment seems to have become more vigilant, and the regulators are becoming better informed concerning both real estate and foreign lending. A serious domestic or international financial crisis would cause problems for some banks but we have no reason to believe this implies fundamental unsoundness in the banking system, or that the problems would necessarily be eased by having a single bank regulatory agency. good
- o Steps -- such as S. 71, a bill to increase certain powers of the regulators that was introduced by Senator Proxmire in January 1977 and passed the Senate last August -- can be taken within the current organizational framework. ok
- o The functioning of financial markets is changing. New institutions and practices are evolving (for example, the growing role of credit unions and electronic funds transfer mechanisms) and it is important to consider what regulatory issues are posed by these developments.
- o There are substantive issues pertaining to financial regulation which are under consideration by the regulators or within the Administration which address some significant current issues. (For example, the Federal Reserve is now reviewing issues relating to bank holding companies and there is an interagency task force studying the question of interest rate ceilings.)

Although these considerations reduce the immediate pressure for reorganization of the banking regulatory agencies, we can expect a continuing interest in our position on the need for such a reorganization. It is therefore important to recognize that a major reorganization effort would entail serious difficulties:

- o Separation of regulatory powers from the monetary policy powers of the Federal Reserve would require very careful design. Chairman Miller should certainly be given time to assess this issue. Reduction of the Federal Reserve's regulatory powers has been strongly resisted by the Federal Reserve in the past. *I agree*
- o The regulatory agencies are clearly jealous of their powers and also have constituencies. Hence, the political problems would be very substantial. Very significant opposition would arise from some banking groups, most state banking supervisors, and Congressmen with connections to the banking industry.
- o Steps toward regulatory consolidation would very likely be accompanied in the Congress by an increase in detailed regulation that substitutes for market competition -- exactly the opposite direction from the thrust of your other regulatory reform initiatives. *Not sure
This is
true*

We do not believe the Administration should at this time propose or support a major reorganization of bank regulatory agencies. But there are improvements that we can make. An informal coordinating committee now exists among the regulators to deal with the setting of interest rate ceilings and, from time to time, this or other ad hoc committees have considered and attempted to coordinate regulatory policies in other areas. The establishment by law of a Financial Institutions Examination Council has recently been proposed in the House and a similar bill is pending in the Senate. This Council would promote uniformity of bank examination procedures and standards. It could be the forum within which regulatory policies to protect the safety and soundness of financial institutions would be reviewed and developed as necessary. This is a very desirable step which the Administration has endorsed. The existence of a Financial Institutions Examination Council may be able to solve those legitimate problems that result from "lowest-common-denominator" regulation. Its establishment is a logical next step in an incremental improvement of financial regulation.

We have discussed the contents of this memo with Treasury and OMB, and both agencies are in general agreement with our appraisal. We all recommend that the Administration continue vigorously to support legislation to establish a Council.

The issue is whether we should initiate a formal "study" of the banking consolidation issue at this time. CEA, Treasury and OMB oppose such a study, and believe that support for the Examination Council would be a positive response to Senator Proxmire's proposal and would indicate our concern with overlapping functions and regulations. In pressing for legislation to establish the Council, it can be emphasized that the Administration considers your transportation reform initiative and your Executive Order on Improving Government Regulations also to be high priority efforts in regulatory reform for 1978. At the same time, however, Senator Proxmire can be assured that questions of financial regulation would be reviewed carefully as we develop our regulatory reform and reorganization priorities for 1979.

Stu's view is that the consolidation question raises legitimate substantive issues and that there is substantial pressure from Senator Proxmire at least to "study" his allegation that the present regulatory structure has created inefficiencies and weakened the banking system. Stu has no opposition to such a study but in view of the reluctance of the three relevant agencies to initiate this study, Stu would concur with the recommendation of CEA, OMB and Treasury that no study be undertaken at this time.

| | | |
|------------------------------|---------------------------------------|----------------|
| <u> ✓ </u> | Approve (Inter-agency recommendation) | sk- |
| <u> </u> | Disapprove | "at this time" |
| <u> </u> | Give me more information | J |

WASHINGTON

DATE: 10 MAR 78

FOR ACTION:

*Rick
Hutcherson
Too late*

INFO ONLY: THE VICE PRESIDENT STU EIZENSTAT
FRANK MOORE (LES FRANCIS) JACK WATSON
JIM MCINTYRE ZBIG BRZEZINSKI
FRANK PRESS CHARLES WARREN

SUBJECT: SCHLESINGER MEMO RE NUCLEAR WASTE MANAGEMENT
WILL BE FORWARDED TO THE PRESIDENT ON MONDAY FOR
SIGNATURE

+++++
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: +
+++++

ACTION REQUESTED: IMMEDIATE TURNAROUND REQUESTED

STAFF RESPONSE: (X) I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

~~If EPA should be added to~~
~~list of addressees.~~ The memorandum should include
a paragraph directing
coordination, as appropriate,
with NRC. JP

THE WHITE HOUSE
WASHINGTON

March 13, 1978

Jim McIntyre

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Stu Eizenstat
Jack Watson

NEW NON-GAME WILDLIFE GRANT

THE WHITE HOUSE
WASHINGTON

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| | FOR STAFFING |
| | FOR INFORMATION |
| / | FROM PRESIDENT'S OUTBOX |
| | LOG IN/TO PRESIDENT TODAY |
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| | ENROLLED BILL |
| | AGENCY REPORT |
| | CAB DECISION |
| | EXECUTIVE ORDER |
| | Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day |

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| | WARREN |

THE WHITE HOUSE
WASHINGTON

3/12/78

Mr. President:

Eizenstat concurs with OMB.

"We know little about the need for such a program, it is not a top priority for the Congress or the individual sponsors of the legislation, and it was not considered in the FY 1979 budget process. I do not believe that this is high enough priority to warrant an addition to the budget, particularly given pressures in other areas."

Congressional Liaison and CEA have no comment.

Watson concurs with Interior, Agriculture and CEQ.

---Rick



THE PRESIDENT HAS SEEN.
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Jim
C
/

MAR 6 1978

ACTION

MEMORANDUM FOR:

THE PRESIDENT

FROM:

JAMES T. MCINTYRE, JR. *W. B. Roth (1-2)*

Subject:

New Non-Game Wildlife Grant

This memorandum summarizes the attached issue paper, prepared by Interior and CEQ staff, presenting for your decision what position the Administration should take toward congressional initiatives to establish a new grant to States for non-game wildlife management.

BACKGROUND

There are four bills pending in Congress authorizing a new grant to States for management of non-game wildlife. Grant levels of \$11 to \$40 million per year, requiring 10- to 25-percent State match, would be authorized. One bill would be financed by a new excise tax on camping equipment.

House mark-up is scheduled for March 14, forcing us to take a position now, even though Administration witnesses have urged postponement of action during hearings in both Houses.

The issue of proposing such a grant program arose during preparation of your May 1977 Environmental Message. At that time, you decided to urge States to use existing wildlife grant funds (mostly now used for game management) and defer consideration of specific proposals until alternatives were studied and until preparation of the 1979 Budget.

As of this time, there has been no marked change in States' allocation of Federal grants toward non-game management; studies to date have looked at alternative grant programs but not the basic need; and Interior requested no 1979 funds for a non-game management program, and none were budgeted.

With congressional action imminent, an alternative proposal has been developed by Interior and CEQ that would authorize, from general funds, \$10 million in FY 1979 and \$20 million per year thereafter to:

- identify needs and plan management programs for non-game fish and wildlife (\$10 million per year, 90-percent Federal, 10-percent State);
- fund State demonstration projects included in management plans (average \$10 million per year, 75-percent Federal, 25-percent State).

ISSUES

Primary: Should the Administration support establishment of a new grant program?

Secondary: If so, which proposal?

Agency arguments for a new grant program are summarized as:

- There is widespread public interest in non-game wildlife, evidenced by growing numbers of bird watchers, photographers, hikers, observers, and members of wildlife groups.
- State wildlife management agencies strongly support a new Federal grant.
- There is organized public support for such a program.
- Wildlife habitat is being diverted to other uses.
- State laws and political obstacles prevent both sufficient use of existing Federal grant funds for non-game wildlife management and appropriation of sufficient State funds.
- Agencies believe a new grant bill will be enacted, regardless of an Administration position, thus the political cost of opposition will be high and unsuccessful.

Arguments against a new grant program are summarized as:

- There is no quantitative assessment of--
 - ° Whether any significant problem exists for which enhanced expenditures for wildlife management is the solution;
 - ° The benefits of enhanced management by States;
 - ° The need for a new Federal grant to generate those benefits.

- States could use existing Federal wildlife grants or their own appropriations to enhance non-game species should they consider it sufficiently important to do so. Sufficient public support should change the political climate within States.
- State administrative agencies will virtually always support additional Federal grant funds, either to bypass or exert leverage on their legislatures, thus this is no test of program merit.
- Once a new State grant program is started, it tends to grow, regardless of merit.
- Achievement of fiscal policy goals and of improved management objectives mandate that the Administration (a) oppose new restricted categorical grants when existing broader grants can be used, and (b) oppose creation of new grant programs at all unless they are clearly justified and carefully designed to achieve solutions to major social problems.
- Administration opposition, properly applied, could head off enactment.

RECOMMENDATIONS

DECISION

1. Should the Administration support establishment of a new grant program for non-game wildlife?

Yes: Recommended by Interior, Agriculture, and the Council on Environmental Quality, Watson

☐

No: Recommended by OMB, DPS

☒

2. If a new grant program is supported, what should it be?

Interior and CEQ strongly support the Interior alternative program (\$10 million in 1979, \$20 million per year thereafter). Agriculture believes it acceptable.

☐

Agriculture's first choice is to support one of the pending congressional bills.

☐

OMB would defer on this question.

Attachment

I prefer that within existing # states have right to support non-game wildlife programs
J

WASHINGTON



DATE: 07 MAR 78

FOR ACTION: STU EIZENSTAT

FRANK MOORE (LES FRANCIS) *AC*

JACK WATSON *at hand*

INFO ONLY: THE VICE PRESIDENT

MIDGE COSTANZA

JODY POWELL

CHARLES SCHULTZE *—NC*

SUBJECT: MCINTYRE MEMO RE NEW NON-GAME WILDLIFE GRANT

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 1100 AM THURSDAY 09 MAR 78 +

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

THE WHITE HOUSE
WASHINGTON

3/12/78

Mr. President:

Watson concurs with Interior

WASHINGTON

DATE: 07 MAR 78

FOR ACTION: STU EIZENSTAT

FRANK MOORE (LES FRANCIS)

JACK WATSON*[Handwritten signature and initials]*

INFO ONLY: THE VICE PRESIDENT

MIDGE COSTANZA

JODY POWELL

CHARLES SCHULTZE

SUBJECT: MCINTYRE MEMO RE NEW NON-GAME WILDLIFE GRANT

+++++
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 1100 AM THURSDAY 09 MAR 78 +
+++++

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

We concur in the recommendation made by Interior, Agriculture and CEQ to support a new grant program for non-game wildlife. We would defer to others in the determination of whether to support pending legislation or introduce a bill on the subject.

Congressional Liaison - H.C.

THE WHITE HOUSE

WASHINGTON

March 11, 1978

MEMORANDUM FOR THE PRESIDENT

FROM STU EIZENSTAT 

SUBJECT MCINTRYE MEMO ON NON-GAME WILDLIFE

CEQ, Interior, and Agriculture are recommending that we support a 3 year, \$50 million program of state grants for non-game wildlife management.

Both CEQ and Interior recommend Administration support for the program because:

- o It is likely to pass the Congress anyway and opposition could cause moderate political annoyance.
- o Imbalances currently exist in funding for game wildlife and non-game wildlife.
- o Some examples have been found of deterioration of non-game wildlife, although no complete quantitative assessment of damage has been made.

OMB recommends that you oppose this new grant program and I concur in that recommendation. We know little about the need for such a program, it is not a top priority for the Congress or the individual sponsors of the legislation, and it was not considered in the FY 1979 budget process. I do not believe that this is high enough priority to warrant an addition to the budget, particularly given pressures in other areas.

THE WHITE HOUSE
WASHINGTON

March 13, 1978

Hamilton Jordan

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: BLACK UNEMPLOYMENT

THE WHITE HOUSE
WASHINGTON

| | |
|---|---------------------------|
| | FOR STAFFING |
| | FOR INFORMATION |
| ✓ | FROM PRESIDENT'S OUTBOX |
| | LOG IN/TO PRESIDENT TODAY |
| | IMMEDIATE TURNAROUND |

return orig to me to read

ACTION
FYI

| | |
|---|-----------|
| | MONDALE |
| | COSTANZA |
| | EIZENSTAT |
| ✓ | JORDAN |
| | LIPSHUTZ |
| | MOORE |
| | POWELL |
| | WATSON |
| | McINTYRE |
| | SCHULTZE |

| | |
|--|-----------------|
| | ENROLLED BILL |
| | AGENCY REPORT |
| | CAB DECISION |
| | EXECUTIVE ORDER |

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

| | |
|--|------------|
| | ARAGON |
| | BOURNE |
| | BRZEZINSKI |
| | BUTLER |
| | CARP |
| | H. CARTER |
| | CLOUGH |
| | FALLOWS |
| | FIRST LADY |
| | HARDEN |
| | HUTCHESON |
| | JAGODA |
| | GAMMILL |

| | |
|--|-------------|
| | KRAFT |
| | LINDER |
| | MITCHELL |
| | MOE |
| | PETERSON |
| | PETTIGREW |
| | POSTON |
| | PRESS |
| | SCHLESINGER |
| | SCHNEIDERS |
| | STRAUSS |
| | VOORDE |
| | WARREN |

THE PRESIDENT HAS SEEN.

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

*Ham -
good info
J*

March 10, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY OF LABOR, Ray Marshall *Ray*

Attached is the memo I promised on the improvement on the black unemployment. Also included is the suggested Presidential statement on reaching public service employment goals.

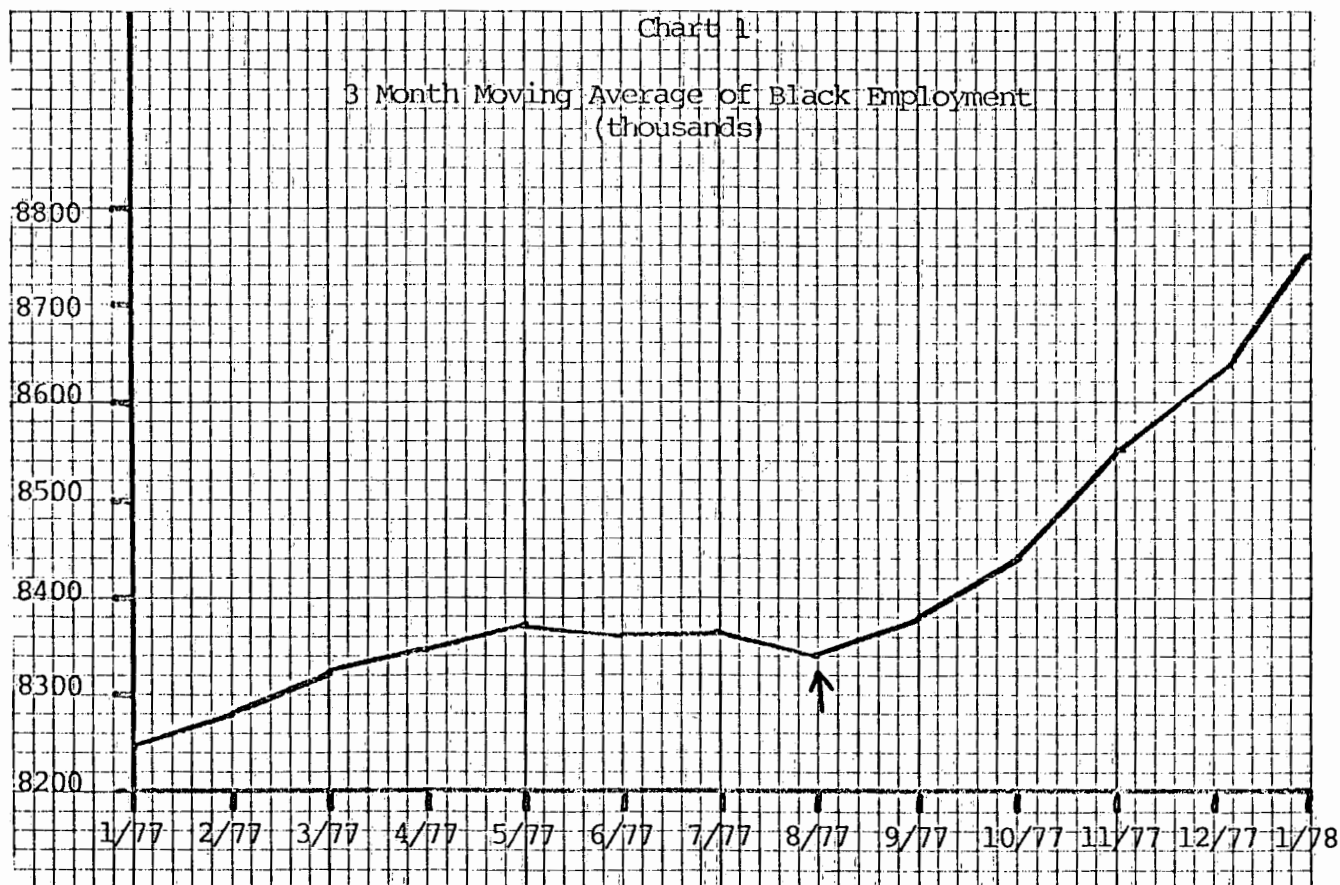
Attachments

RECENT IMPROVEMENT IN BLACK EMPLOYMENT

The recent behavior of the black employment statistics is encouraging. Since August, black employment has increased by 5.9 percent. Since May, black teenage employment has increased by 15.5 percent. This reverses the experience of the previous two years when the position of black workers relative to whites deteriorated substantially.

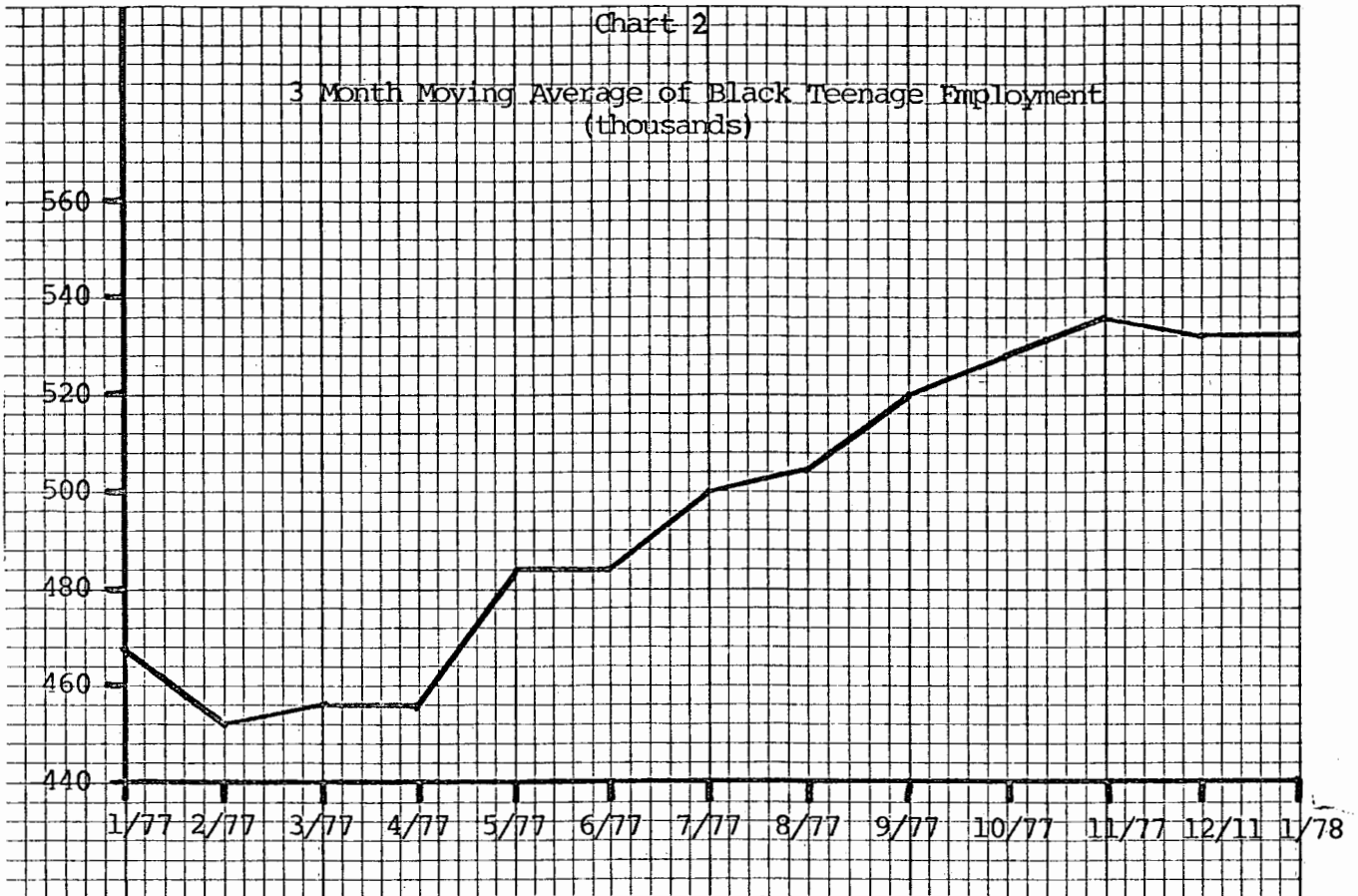
While we should not place too much emphasis on the data for a single month, the reported unemployment rates for both teenagers and adults hit their peaks in August.

As the chart shows, a substantial increase in black employment began in that month. A three month moving average of total black employment shows the strong improvement that took place during the last part of 1977 after a weak performance in the early part of the year.



From the first quarter of 1977 to the most recent three month period, black employment increased by 6.2 percent while an increase of 4.9 percent has been felt since the third quarter alone. These improvements are very encouraging. While it is clear we still have a long way to go, we have made solid progress over the last few months on one of our most stubborn problems.

The growth in employment of black teenagers has been even more striking. For teenagers, however, the strong increases in employment began earlier in the year. Chart 2 shows a three month moving average of black teenage employment.



From the second quarter to the most recent three month period, the average level of employment for black teenagers increased by 9.9 percent while that for white teenagers increased by 3.5 percent. The black teenage unemployment rate, however, continued to grow for several months after employment had started to increase, and it was not until September that improvements in that rate were reported.

While the increase in black employment has been substantial, it has not been fully reflected in the reported unemployment rates because of large increases in the labor force participation rate of blacks. Over the past year, the black labor force participation rate increased from 58.9 percent to 61.0 percent while the white rate increased from 62.3 percent to 62.9 percent.

Rather than be troubled by these higher participation rates, we view them as further evidence of improvement in the labor market status of blacks. Participation rates for blacks had been declining steadily for over a decade and this decline had masked an imbalance between the growth in black employment and the growth in the black population. The recent improvement in black employment has begun to correct this imbalance.

The Role of PSE

The buildup of the stimulus portion of the Public Service Employment program began in May. From May 1977 to March 3, 1978, employment in CETA titles II and VI increased by 455,000. We estimate that over 150,000 of that increase was black.

Eligibility requirements for CETA jobs were changed when the expansion began. All new jobs and half of the openings arising from existing jobs had to be filled by workers who were disadvantaged. This means that the new workers had to come from families with income below 70 percent of the BLS standard for lower income families. Eighty-six percent of all new PSE enrollees met this criterion after the eligibility requirements were changed as compared to only 44 percent who met the standard in FY 1976.

Before the requirements were changed 25 percent of PSE enrollees were black. After the change, 33 percent were black.

Since total black employment has increased by 452,000 since the second quarter, it is estimated that 33.4 percent of that increase was directly due to the CETA programs.

The CETA expansion has been successful in two other respects: (1) we recently hit our target of 725,000 jobs in exactly the week we had chosen over 9 months before; (2) the new employment was devoted to special projects rather than to existing government operations, and an independent study by Richard Nathan of the Brookings Institution concludes that substitution of CETA employees to perform regular state and local jobs was only 8 percent on these projects.

The Outlook

The black unemployment problem is far from being solved, but these numbers indicate that the remaining problem is a manageable one. In February, unemployment of black teenagers totalled 368,000. While we hope that many more black teenagers will enter the labor market to acquire useful job skills, the total number of both unemployed and potential entrants is not large compared to our ability to address the problem. In the next few months, we hope to see further improvement in teenage employment as our new youth program begins to take affect.

In short, I am encouraged by the recent data and I am passing that encouragement along.

PRESIDENTIAL STATEMENT ON REACHING PUBLIC
SERVICE EMPLOYMENT GOALS

It gives me great pleasure to announce that our expansion of public service jobs under the CETA program has reached its goal of 725,000 jobs on schedule.

Last May, when the Economic Stimulus Package was passed, there were less than 300,000 jobs being provided by the major Public Service Employment titles of the Comprehensive Employment and Training Act. Critics argued we would be unable to meet our schedule of 725,000 jobs by March 1.

Not only did we meet the target, but we met it in the exact week we had scheduled over 9 months ago. This is a remarkable accomplishment. It demonstrates that the CETA system is an effective fiscal policy tool that can move rapidly against the problem of unemployment.

- o This rapid expansion of the public service jobs program was done without the creation of a large, new Federal bureaucracy.
- o It was done without high administrative expenses that take money out of the pockets of the poor and the unemployed and give it to middle-class administrators.
- o It was done, as a recent study by Richard Nathan of the Brookings Institution indicates, without a significant degree of substitution of CETA workers for regular municipal employees.
- o It was done on a local basis. Bureaucrats sitting in Washington did not mandate what jobs CETA workers could hold or the type of work they needed to do.

The increase in CETA employment since May was accompanied by a much larger increase in private sector employment. While the 450,000 new CETA jobs were being created, private employment increased by 2.6 million. The unemployment rate fell from 7.1 percent to 6.1 percent now. Black employment increased by 5.9 percent. It is estimated that 33 percent of this increase was due to the buildup of the CETA system jobs.

The CETA system continues to change for the better. The growth since May has been concentrated much more heavily among disadvantaged workers than before. Prior to the expansion, less than half of the enrollees in the major CETA employment titles were disadvantaged. During the expansion, more than 86 percent of new enrollees were disadvantaged. I have submitted to the Congress a reauthorization of the CETA bill that will devote 100 percent of the future resources of the system to the disadvantaged.

The new bill also contains a provision that automatically increases the funding for this program when the unemployment rate rises. Our recent success in reaching the 725,000 target indicates these additional funds will be able to be spent quickly and efficiently, as we had intended when drafting the new bill.

I took office with the firm conviction that government can be made to work compassionately, quickly and effectively. The successful expansion of the public service jobs program within such a short period of time reaffirms my faith in the ability of government to deal directly with serious economic and social problems.

WASHINGTON

DATE: 11 MAR 78

FOR ACTION:

INFO ONLY: THE VICE PRESIDENT

STU EIZENSTAT

HAMILTON JORDAN

JODY POWELL

JACK WATSON

JIM MCINTYRE

CHARLES SCHULTZE

BUNNY MITCHELL

SUBJECT: MARSHALL MEMO RE BLACK UNEMPLOYMENT FIGURES

+++++

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: +

+++++

ACTION REQUESTED:

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

C
✓

MEMORANDUM TO: THE PRESIDENT

FROM:

Jack Watson *Jack*

March 13, 1978

RE:

Coal Strike Status Report

The following figures indicate the number of mines which have gone back into operation since Friday, March 10. As you know, the temporary restraining order was issued on Thursday evening, March 9.

| | <u>Mines</u> | <u>Mine Workers</u> | <u>Tons of Coal Per Day</u> |
|---------------|---------------------|---------------------|---------------------------------|
| Illinois | 1 non-union | 85 | 2,200 |
| Ohio | 50 non-union | 1,029 | 31,800 |
| Pennsylvania | 2 union | 29 | 400 |
| | 75 non-union | 1,594 | 36,500 |
| West Virginia | 1 union | 40 | 400 |
| | <u>11</u> non-union | <u>300</u> | <u>2,000</u> |
| Total | 140 | 3,077 | 73,300 |

We had a meeting this afternoon that included, among others, Griffin Bell and Bob Bergland. The Justice Department will render an opinion this week affirming the Secretary of Agriculture's construction of the 1975 regulation, the effect of which is to cut off food stamps to miners who do not go back to work after a Taft-Hartley injunction is issued. No public announcement of the Attorney General's opinion will be made for a couple of days, and no action will take effect until the 1st of April, since food stamps have already been issued for the month of March. Jody was at the meeting this afternoon and has this information.

A question has arisen as to whether or not HEW can legally direct the termination of AFDC payments to miners' families under the Taft-Hartley injunction situation. HEW has issued such a directive, but Justice believes that the

Secretary has no authority to do so. I have discussed the matter with Joe Califano and asked him to get his counsel together with John Harmon, Director of the Office of Legal Counsel at Justice, to resolve the situation.

Reports from the Emergency Program Center at Justice indicate there were scattered incidents of disruption over the weekend, but no serious incidents of violence. By the close of business today, virtually all UMW locals and mine operators had been served by U.S. Marshalls without any reported incidents of violence or evasion (only six summonses have not been served; two in eastern Illinois; two in western Pennsylvania; and two in southern West Virginia).

The Justice Department has instructed all U.S. Attorneys to be prepared to enforce the law against picketers, refusal by union officials to direct their members to return to work and other illegal activities. The U.S. Attorneys have instructions to clear with Washington any contemplated enforcement activities in which arrests are likely. If a U.S. Attorney believes there are not enough resources to effectuate the necessary arrests, Washington will, if possible, shift U.S. Marshalls and/or FBI agents to the district in question. State and local authorities will, of course, continue to be the primary law enforcement mechanism. It is primarily for the enforcement of federal court orders that the U.S. Marshalls and/or FBI agents will be required.

CC: Landon Butler
Stu Eizenstat
Hamilton Jordan
Bob Lipshutz
Frank Moore
Jody Powell
Charlie Schultze

THE WHITE HOUSE
WASHINGTON
March 13, 1978

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Tim Kraft

RE: CONSUMER REPRESENTATION

THE WHITE HOUSE
WASHINGTON

3/10/78

Mr. President:

You asked Stu Eizenstat to comment upon Jim McIntyre's memo (TAB A), which presented a range of administrative alternatives for consumer representation.

Esther Peterson has written you a memo on the same subject (TAB B).

Stu Eizenstat's memo commenting on both the McIntyre and Peterson memos is at TAB C. I have noted OMB's comments on Esther's memo along the margin of Stu's memo.

Jack Watson concurs with all of Esther's recommendations.

Congressional Liaison objects to none of the recommendations, provided that no legislation is required.

Rick

See -
Go over ^{my} comments A
on your memo - Then
Jim & Esther -
I'll meet with (any
of) you if necessary -
JC



THE PRESIDENT HAS SEEN.
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

~~CONFIDENTIAL~~
to Stu
advice?
J
MAR 3 1978
(be brief)

MEMORANDUM FOR THE PRESIDENT

FROM: James T. McIntyre, Jr. *Harrison Weir*
In J.T.M.
SUBJECT: Implementation of Alternatives for Consumer Representation in the Government

After the defeat of H.R. 9718, the bill to establish an Office of Consumer Representation (OCR), you asked me to present you with a range of administrative alternatives for consumer representation. This memorandum outlines those alternatives.

I. Background

H.R. 9718 would have established an independent Office of Consumer Representation to intervene in agency proceedings on behalf of consumers. The Office would have had powers to seek judicial review of such proceedings, to handle consumer complaints, and to perform a consumer information and education function. In addition, H.R. 9718 would have reorganized consumer offices in the Federal Government by transferring 20 of them to the OCR. The offices that would have been moved to the OCR include HEW's Office of Consumer Affairs (OCA), the Office of Rail Public Counsel of the Interstate Commerce Commission, and the Consumer Information Center of the General Services Administration.

II. Administrative Alternatives for Consumer Representation

A. Establishing a New Consumer Office by Executive Order

The President's authority to reorganize by Executive Order is limited. An Executive Order could not transfer or eliminate a consumer office established by statute (e.g., the ICC's Office of Rail Public Counsel or the Postal Rate Commission Consumer Advocate). Nor could an Executive Order affect a consumer office created by a department head pursuant to statutory authority (e.g., the FDA's Consumer Affairs Offices).

The President may transfer by Executive Order only consumer offices established pursuant to the President's powers. The Office of Consumer Affairs at HEW (OCA) is an example. It was established in the Executive Office of the President by Executive Order 11583 in 1971 to advise the President on consumer issues, to research and provide information on these issues to the public, and to transmit consumer complaints to appropriate Federal agencies. In 1973, President Nixon transferred OCA to the Department of HEW by Executive Order 11702. Another example is the Executive Order 11566 in 1970. Since these two offices were created by Executive power, they may be reorganized or eliminated by Executive Order.

Since so few consumer agencies were created under Presidential authority, no significant reorganization would be possible by Executive Order. More importantly, the creation of units outside the Executive Office by Executive Orders has generally not found favor in the Congress. In this case, the refusal of the House to accept the Office of Consumer Representation would probably mean that such a move would be unpopular on the Hill.

- B. Establishing an Office of the Special Assistant for Consumer Affairs in the White House (i.e., continuing and upgrading Esther Peterson's position)

The President may establish an Office of the Special Assistant for Consumer Affairs in the White House. The Office of Consumer Affairs now at HEW was created in the EOP by Executive Order in 1971. For this purpose, it would be possible to place a small core of professionals on the EOP or White House payroll, or to staff the office from the Office of Consumer Affairs (HEW) as we do today.

This office could provide input on consumer issues in domestic policy decisions, and coordinate the various activities of consumer offices in the departments and agencies. While this office would not have authority over a consumer office established by statute, such as the ICC Rail Public Counsel, it could have, within limits, certain budget and tasking authority over the other consumer offices. To limit conflicts between the upgraded office of the

White House Assistant and Executive department heads, it might be desirable to create an interagency consumer coordinating committee similar to the interagency committee established under the intelligence reorganization Executive Order.

C. Establishing a Consumer Advocacy Function in an Independent or Executive Agency

One of the most significant provisions of H.R. 9718 was the OCR's mandate to intervene in the proceedings of Federal agencies where there is a substantial consumer interest and where that interest would not otherwise be represented. Now that there will not be a consumer agency, it has been suggested that the intervenor function be established in an existing agency. The Federal Trade Commission would like to assume this function. There is a question as to the President's specific or inherent authority to assign such a function to an independent agency, such as the FTC. The President can, however, direct executive branch agencies to allow the FTC to intervene in executive agency proceedings except to the extent limited by some other law, and to give the FTC access to agency information except for information protected by law. The FTC already has its own statutory authority to intervene in some agency proceedings and does not need a delegation by the President to do so.

It has also been suggested that the intervenor function could be assigned to an executive branch agency. The Justice Department, for example, already intervenes in agency proceedings, but the Department's ability to act as a consumer representative would be limited due to the fact that the Department could end up wearing two different hats in the same proceeding. Moreover, Congress has, in some cases, limited the ability of the Justice Department to intervene before executive and independent agencies.

The Council on Wage and Price Stability also participates in agency proceedings. Further examples of agency intervenors could be examined and options for an intervenor role in an executive branch or independent agency can be prepared for your consideration.

D. Enhancing Advocacy Functions in the Agencies

The Administration has been supporting legislation to authorize agencies to subsidize public interest intervenors in their proceedings. This bill failed to get out of committee in either the House or Senate last session. Now that the OCR vote is past, another effort will be made to get the bill moving.

A few agencies have already taken action to establish programs to compensate public participants in their proceedings. The FTC and the EPA have explicit statutory authority to do so, while other agencies have acted on their own authority, e.g., DOT's National Highway Transportation Safety Administration and the Consumer Product Safety Commission.

Pending legislative action, the President could issue a directive to executive agencies, asking them to ascertain whether they have the authority under their statutes to establish intervenor funding programs and strongly encouraging those agencies with the requisite authority to establish such programs.

This approach would require careful review of agency initiatives to minimize pressure for supplemental appropriations.

III. Consumer Reorganization Plan

Another alternative involves reorganizing the consumer functions of the Federal agencies pursuant to a reorganization plan submitted to Congress. Under such a plan, these functions could be placed in a new consumer office. However, the Reorganization Act of 1977 places serious limits on what could be achieved by such a plan. The Act would prevent such a reorganized consumer office from having any powers greater than the powers held by its constituent parts. This means that a reorganized consumer office would not have the power to intervene in agency proceedings affecting consumer interests and obtain judicial review of those proceedings because the present consumer offices do not have this power. (A partial exception is the ICC's Rail Public Counsel which does have the statutory authority to participate in rail proceedings at the ICC and obtain judicial review.) Consequently, a consumer office substantially different from that proposed in H.R. 9718, would result from a plan.

More importantly, a significant reason for the failure of the consumer bill was opposition to the creation of

any new agency. Any attempt to create an agency by means other than legislation will generate considerable opposition and probably animosity from some who supported the bill.

IV. Effect on Budget of Implementing Alternatives

The 1979 budget earmarked \$11.6 million for transfer to the OCR of the budgets of 26 consumer offices located in the agencies. The budget also deleted from the agencies' budgets \$8.6 million which was used to fund the Ford consumer plans. (In the event of passage of the OCR, the budget noted that an additional \$3.4 million would be requested to result in a \$15 million budget for the first year of the OCR's operation.)

Establishing a new consumer office by Executive Order would be accomplished by transfer of the appropriate segments of the \$11.6 earmarked earlier for transfer to the OCR. There would be no additional impact on the budget.

Permanently establishing an Office for the Special Assistant for Consumer Affairs in the White House would require additional funding for a small professional staff in the White House. Alternatively, the present arrangement under which staff for the office is provided by the Office of Consumer Affairs (HEW) could continue.

Establishing a consumer advocacy function in an independent or executive agency would require an additional appropriation to support this activity. However, the size of such an appropriation could be held at or below the level that would have been available to OCR.

Encouraging agencies to establish programs to compensate public participants in their proceedings would probably result in requests for supplemental appropriations to particular agencies to support this program. It should be noted that since your Consumer Message, the Administration has been supporting legislation which would provide for \$10 million of funding for this activity for the first year.

Implementing a consumer reorganization plan would result in the transfer of the earmarked \$11.6 million to a new consumer office. There would be no additional impact on the budget.

1215

THE WHITE HOUSE
WASHINGTON

March 6, 1978

Stu Eizenstat

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling. Please combine this comment with remarks on Esther's memo on same subject.

Rick Hutcheson

RE: IMPLEMENTATION OF ALTERNATIVES
FOR CONSUMER REPRESENTATION
IN THE GOVERNMENT

ADMINISTRATIVELY CONFIDENTIAL

B

THE WHITE HOUSE

WASHINGTON

March 3, 1978

Dear Mr. President:

Since our telephone conversation after the defeat of the consumer bill, I have put together a plan which I believe is workable, politically useful, and acceptable to your consumer constituency.

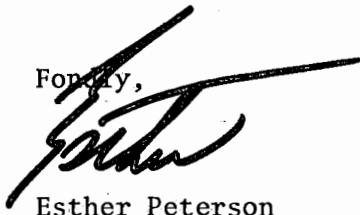
I have consulted staff of the Domestic Council, OMB, and others.

I'll be away a week in Rome, at the request of Dr. Peter Bourne, working on the FAO Nutrition Conference.

I am keenly aware of the pressures which surround you, but I do hope a suitable program can be decided upon before too long.

Have a beautiful weekend at Camp David--you and your loved ones deserve it.

Fondly,

A handwritten signature in dark ink, appearing to read 'Esther', with a long, sweeping horizontal line extending to the right.

Esther Peterson

Your Civil Service Reform Plan is so splendid! I speak from experience.

THE WHITE HOUSE

WASHINGTON

March 3, 1978

MEMORANDUM TO:

THE PRESIDENT

FROM:

ESTHER PETERSON

SUBJECT:

Consumer Advocacy in the Government

The defeat of the consumer agency bill suggests that we quickly identify and implement alternative approaches to assure consumer participation and input in federal decisionmaking. Consumer, labor, church, enlightened business, environmental, and senior citizen groups were bitterly disappointed by Congress's failure to enact the OCR legislation. They can be expected to continue to press the Administration to demonstrate its commitment to a principle on which you have taken a strong stand and in which they so deeply believe.

Options

(1) I have explored the option of establishing by Executive Order or by a Reorganization Plan a separate Office of Consumer Representation (OCR) with powers similar to those of the Office which would have been created by the legislation. While I do not believe that the defeat of the bill was a vote against the principle of consumer input, it was a vote against a new separate agency or office. It was an expression of Congressional sentiment for improving existing structures.

As you directed, the consumer agency legislation would have required a reorganization of existing consumer programs from which the OCR was to be created. There is no reason to believe that Congress would now be willing to approve the same result through a reorganization plan. Moreover, to attempt to create a separate Office through Executive Order would also appear to be defying the will of Congress. Thus, I have concluded that it would be politically unwise to create the Office by either of these approaches. Sympathetic Members of Congress and key staff agree with this assessment.

Decision

Approve

Disapprove

Establish a separate OCR
by Executive Order or
Reorganization Plan
(not recommended)

(2) The creation of separate advocacy units in each federal agency is another approach to consider. By Executive Order, these offices could be vested with authority to obtain necessary information. However, I believe this approach mirrors too closely the Glickman substitute to the consumer agency bill which was overwhelmingly defeated and the Ford Consumer Representation Plans which we have criticized as being ineffective. Funds for the Ford Plans have been deleted in the FY 1979 budget.

| <u>Decision</u> | <u>Approve</u> | <u>Disapprove</u> |
|---|----------------|-------------------|
| Create separate advocacy units in each Federal agency (not recommended) | _____ | _____ |

Alternative Approaches

To demonstrate this Administration's commitment to consumer issues and meaningful consumer involvement in government, I recommend the following three-pronged program:

I. Enhancement of the Consumer Voice in The White House

There are two new responsibilities you could assign to your Special Assistant for Consumer Affairs:

First, an increased role in the development of domestic policy. As you have recognized, there is a consumer component in most domestic policy decisions. However, there is currently no regular and systematic mechanism for injecting the consumer perspective into domestic policy decisions in the White House. Certainly it has been done on an informal basis. But, to include your Special Assistant for Consumer Affairs, as resources permit, in the formulation of domestic policies such as energy, health, transportation, housing, education, and safety as those policies are being developed would be a unique and significant departure from the assignments given to previous Consumer Advisers. Your consumer constituency would consider this an important contribution to representation of their interests in government.

Second, the Special Assistant for Consumer Affairs could be assigned the responsibility of coordinating the various consumer offices in federal agencies. A unified federal approach to consumer information and education, consumer research, complaint handling and liaison with the public has not been undertaken in the past. A "budget and tasking" authority similar to that given to the Director of the CIA for domestic intelligence activities may also be appropriate for the Assistant for Consumer Affairs for federal consumer programs. Under that approach,

the Assistant could review the budgets of principal federal consumer programs and, with the assistance of an inter-agency coordinating committee, provide a unified Administration policy direction to the activities of those programs.

If such an expanded role were given to the Special Assistant for Consumer Affairs, some staffing modifications would be required. A core staff of 4 - 6 professionals would be adequate if the Assistant could seek additional expertise or assistance from time-to-time from agency employees as was done under the Johnson Administration. The salaries for the current staff comes from the budget of the Office of Consumer Affairs, HEW. In future Federal budgets, an alternative method of funding should be explored.

| <u>Decisions</u> | <u>Approve</u> | <u>Disapprove</u> |
|--|----------------|-------------------|
| Increase the responsibilities of the Special Assistant for Consumer Affairs to include: | | |
| Input in White House domestic policy issues which have an identifiable consumer component | _____ | _____ |
| Authority to review tasking and budgeting of federal consumer programs | _____ | _____ |
| To reflect the added responsibilities, upgrade the position of Special Assistant to the President for Consumer Affairs | _____ | _____ |
| Authorize 4 - 6 professionals to staff Special Assistant for Consumer Affairs | _____ | _____ |

II. Enhance Advocacy Functions in the Federal Agencies

The principal activity of the consumer agency would have been to assure a consumer voice in the proceedings of federal agencies. There are two major steps you could take now to expand consumer advocacy.

First, you could direct Executive Departments and agencies to examine their enabling statutes to determine whether they are currently authorized to use appropriated funds to subsidize consumer participation in agency proceedings. Several agencies currently fund public participation programs from their own resources. The legislation which you have supported to make these programs government-wide is still needed, however, since the U.S. Court of Appeals has ruled that some agencies

do not have inherent authority to use their resources for this purpose. The bills have been stalled in Committee in both the House and Senate and until the legislation is enacted, you could encourage the agencies to establish these programs utilizing their own resources. The Special Assistant for Consumer Affairs could provide guidance in setting up these offices.

Second, a consumer advocacy function could be created in an independent or executive agency. There are some ongoing advocacy programs in the federal government today, but they are unsystematic and their mandate is not specifically geared to representation of consumer interests. The mandate of the new consumer advocacy program could be similar to that envisioned for the Office of Consumer Representation: to intervene in proceedings of federal agencies where there is a substantial consumer interest and where that interest would not otherwise be adequately represented. The additional right to seek judicial review would have to be tested in court. By Executive Order, the advocacy program could be given access to necessary information and Executive agencies could be ordered to permit intervention in their proceedings.

If such a program were to be created, the FTC offers several advantages. The FTC has an established consumer protection mandate and image and its jurisdiction and expertise reach many sectors of the economy. It has experience in intervention before both independent and executive agencies. Moreover, it has broad information gathering authority under section 6 of the FTC Act to aid in its advocacy functions.

Alternatively the advocacy function could be placed in an Executive department such as Justice. This approach would keep control of the program within the Executive Branch and would ensure that it will be directed by an appointee ultimately responsible to the President. There are several factors, however, which would militate against locating such a program at Justice. DOJ is not perceived as a consumer-oriented agency by public interest groups and its staff is not experienced in consumer protection matters. Further, there would be a conflict between Justice's responsibility to advise and represent Federal agencies and the representation of consumers in those agencies' proceedings. Finally, consumer advocacy could get lost in an agency as large as Justice.

To fund an advocacy program, Chairman Pertschuk believes a supplemental appropriation in the range of \$5 million would have to be sought from Congress. This could be justified since the savings resulting from deletion of the Ford Consumer Representation Plans was \$8.5 million. This level of funding would support a program of 80 advocates.

| <u>Decision</u> | <u>Approve</u> | <u>Disapprove</u> |
|--|----------------|-------------------|
| For the near term, prepare a directive to executive agencies encouraging adoption of programs to fund participants in proceedings of the agency. (recommended) | _____ | _____ |
| For the long term, explore immediately with federal agencies the creation of an advocacy function in the federal government (recommended) | _____ | _____ |
| If you approve: | | |
| The function should be in FTC (recommended) | _____ | _____ |
| The function should be in an Executive Department | _____ | _____ |

III. Enhance Non-Advocacy Consumer Functions in Agencies

Each head of a federal agency should be directed to assess the adequacy of consumer programs in his or her agency. Once the assessment is prepared, it should be submitted to the White House Consumer Assistant as coordinator of federal consumer programs. The presence of a consumer advocacy program to participate in proceedings of other federal agencies does not obviate the need for a consumer consciousness in each agency. Each agency should have a citizen ombudsman activity to participate in policy and program development in the agency and to assure adequate complaint and information handling procedures.

Second, if you agree to establishing the consumer advocacy program outlined in Part II of this memo, the functions and responsibilities of the Office of Consumer Affairs (OCA), HEW could be redefined and the Office largely transferred to another agency.

The new mission could be informational in nature and the Office transferred to the General Services Administration where it could be merged with the Consumer Information Center (CIC). In addition to the CIC's role of distributing consumer information, the office could serve as a consumer's "index to the federal government." For example, it could provide guidance to citizens on such questions as how to partic-

ipate in government proceedings, where to direct consumer complaints, and where to obtain information or government studies on a specific problem or subject. It also could work with business to improve their consumer programs and encourage voluntary efforts. Finally, this office could ultimately be responsible for establishing toll-free government information lines as you established in Georgia and develop the capability of utilizing the most modern information exchange techniques.

Since 20% of OCA resources are currently spent on consumer issues within HEW, however, a portion of the Office would remain intact in that Department.

| <u>Decision</u> | <u>Approve</u> | <u>Disapprove</u> |
|---|----------------|-------------------|
| Federal agency heads should be directed to prepare a report on the adequacy of consumer programs in their agencies and report to the Special Assistant for Consumer Affairs (recommended) | _____ | _____ |
| A large part of the Office of Consumer Affairs, HEW should be transferred to the General Services Administration, merged with the Consumer Information Center, and assume an informational role (recommended) | _____ | _____ |

C

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
SI LAZARUS *si*

SUBJECT: McIntyre and Peterson Memos on Consumer Representation

Following are our comments on the memoranda submitted by Esther Peterson and Jim McIntyre regarding alternative means to enhance consumer representation within the government, in light of the defeat of the OCR bill.

Esther concludes that the practical options are:

- To strengthen the White House office which she now heads;
- To give added support to reimbursement for private consumer advocates before government agencies;
- To evaluate "non-advocacy" consumer functions in the agencies and transfer certain HEW functions to GSA.

In broad outline, we agree with Esther's conclusions. We need to maintain good relations with consumer groups and to show the public that you care about consumer interests. A White House spokesperson and increased support for private advocacy are the best means to these ends.

On the specific decisions Esther asks you to make, our comments are as follows:

I. White House Consumer Office

We recommend that you approve Esther's recommendation that the White House consumer assistant be authorized to have "input" into the development of Administration policies on issues with "an identifiable consumer impact," to the extent that her limited staff resources permit. Such authority is already implicit in Esther's current mandate.

OMB: We recommend that you instruct Esther and OMB to develop more fully her second recommendation--that her office "review tasking and budgeting of federal consumer programs." After consultation with the relevant agencies, she should return to you with a specific plan to implement the recommendation. Jim's memo indicates that legal and other issues should be fully assessed before this recommendation is acted upon. *ok*

OMB: We take no position as to whether you should approve Esther's remain third recommendation--to upgrade her position, presumably as Special Assistant to the President rather than Special Assistant. Currently, there are only six positions in the White House FY 1978 budget for (Level II) Assistants to the President, but the Administration is seeking authorization to create more such positions in the FY 1979 budget. *no*

OMB: We recommend that you approve her recommendation to authorize continue four to six professionals for the consumer assistant's to use office--but instruct Esther and OMB to determine the extent HEW's to which this can be satisfied through the use of available OCA consumer positions in the agencies, especially in HEW's staff Office of Consumer Affairs, which furnishes most of the positions currently under Esther's direction.

II. Federal Reimbursement of Private Consumer Advocates

OMB: * We recommend that you approve her recommendation to prepare a directive encouraging agencies to adopt programs to fund public participation in their proceedings. *ok & OMB proviso*

OMB: ** We recommend also that you approve Esther's recommendation that you authorize her office, together with OMB, Justice, and others, to explore her recommendation to encourage an appropriate agency, most likely the FTC, to expand its consumer advocacy functions within the government. As OMB's memo notes, the Justice Department and other executive agencies already represent what are in effect consumer interests before some of the independent agencies. We question Esther's suggestion that an Executive Order would be necessary to permit the FTC to expand its advocacy activities before Executive agencies. This and other questions, such as how to respond to the FTC's request for \$5 million for funding this function, should be addressed by a study. You could ask that such a study be completed within one month, to emphasize your commitment to quick action in behalf of consumer advocacy. *Study only - no presumption of approval*

*OMB concurs, to extent permitted by current authorizations and appropriations. OMB should review budget implications of specific plans agencies develop.

**OMB: a study of this proposal could be the first major assignment of the Special Assistant for Consumer Affairs, in cooperation with OMB & DPS.

III. Non-Advocacy Functions

OMB:
conkurs.

We recommend that you approve Esther's recommendation to ask all agency heads for a report on their consumer programs. *ok*

OMB:
conkurs.

Finally, we recommend that you not act on Esther's recommendation to transfer most of HEW's Office of Consumer Affairs to GSA. Instead you should ask that this proposed mini-reorganization be assessed by Esther and OMB's Reorganization Project, in consultation with HEW and GSA. *ok*

The alternatives discussed in Esther's memo are the same as those covered in Jim's March 3 memo, on which you requested Stu's confidential comments. Our comments on Esther's recommendations subsume our responses to Jim's analysis. We have discussed Esther's recommendations with OMB, and we understand that OMB's comments are substantially equivalent to ours.

One caveat should be kept in mind in considering Esther's recommendations. Strengthening (or even continuing) her White House consumer office makes sense only if she, or someone of equivalent stature and ability, occupies it. It is our impression that Esther is uncertain about her future plans, but would probably decide to stay on if asked. We recommend that you ask her to do so.

I agree

WASHINGTON

DATE: 03 MAR 78

FOR ACTION: STU EIZENSTAT

HAMILTON JORDAN

BOB LIPSHUTZ

FRANK MOORE

JIM MCINTYRE

INFO ONLY: THE VICE PRESIDENT

JODY POWELL

JACK WATSON

SUBJECT: ESTHER PETERSON MEMO RE CONSUMER ADVOCACY IN GOVERNMENT

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 1200 PM MONDAY 06 MAR 78 +

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

DATE: 03 MAR 78

FOR ACTION: STU EIZENSTAT

HAMILTON JORDAN

BOB LIPSHUTZ

1978 MAR 4 PM 4 45 ERANK MOORE

JIM MCINTYRE

INFO ONLY: THE VICE PRESIDENT

JODY POWELL

JACK WATSON

SUBJECT: ESTHER PETERSON MEMO RE CONSUMER ADVOCACY IN GOVERNMENT

+++++
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 1200 PM MONDAY 06 MAR 78 +
+++++

ACTION REQUESTED: YOUR COMMENTS
STAFF RESPONSE: ☒ I CONCUR ^{with all of Esther's recommendations} () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

We underscore That your Consumer
Constituency includes a number of
Groups - labor, Seniors, Churches,
minorities - who are unhappy with
certain other Administration policies. This is
a very efficient way to ~~reach~~ deal with
many of their concerns.

THE WHITE HOUSE
WASHINGTON

Moore

As long as no legal.
is involved - a/k.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MAR 9 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

Jim McIntyre

SUBJECT:

Comments on Esther Peterson's Memo on
Consumer Advocacy in the Government

1. Establishing a separate OCR by Executive Order or by
Reorganization Plan:

We agree with Esther that an Executive Order or Plan to create an agency so recently rejected by the House would be politically unwise. Since such an agency would have none of the powers of the Office of Consumer Representation (OCR), consumer groups are unlikely to object to our taking no action on reorganization at this time.

2. Creating separate Advocacy Units in each Federal Agency:

We agree with Esther that this approach would also be politically unwise in view of its similarity to both the Ford plans, which you have rescinded, and the Glickman substitute, which would have upgraded agency consumer units and made them more independent, but which the House rejected.

3. Enhancing the Consumer Voice in the White House:

Esther's proposal assumes that you will reverse an earlier decision--in the EOP reorganization--to abolish the position of Special Assistant for Consumer Affairs. At the time the EOP study recommendation was completed, it was assumed that the new consumer agency would eliminate the rationale for such a position. We have no objection to continuing her office as she outlined. As we indicated in our memo to you, some budgeting and tasking responsibility over consumer units in the agencies could be assigned to the Special Assistant. However, we urge you to reserve decision on that question until a detailed proposal can be put together. In the meantime, we recommend you assign the Special Assistant responsibility for oversight and coordination of all consumer activities in the government. Similarly, we do not believe you need to authorize additional new positions at this time, since we believe that the Assistant's staff may continue to be supplied by the Office of Consumer Affairs (HEW).

4. Enhancing Advocacy Functions in the Federal Agencies:

We agree that you should encourage each agency to establish programs for funding public participants in their proceedings, but only to the extent that current authorizations and appropriations permit. The Office of Legal Counsel of the Justice Department has recently advised agencies that they may examine their own statutes to determine if they already have explicit or implicit authority to establish such programs. We believe legislation to establish these programs, which you supported in last year's Consumer Message, is still necessary and is the most effective instrument for managing the costs of such programs, through a general authorization for \$10 million and appropriations within that total amount to each agency. In the meantime, OMB should review the budget implications of any specific plans agencies may develop if you accept Esther's proposal.

We think it appropriate for the Special Assistant for Consumer Affairs to provide guidance to agencies in setting up these programs and to coordinate the drafting of uniform guidelines for them in consultation with OMB.

5. Creating an Advocacy Function in an Independent or Executive Agency:

From time to time, agencies such as the FTC and the Justice Department participate in proceedings of other agencies representing the public interest as defined by their own missions (e.g., the Antitrust division frequently opposes action by other agencies which it considers to be anti-competitive). The consumer agency would have intervened in proceedings of Federal agencies where a substantial consumer interest could be identified and where that interest would not otherwise be adequately represented. Mrs. Peterson's memo recommends that an existing independent or executive agency be assigned a general consumer advocacy function.

We agree with Esther that the present consumer advocacy programs are uncoordinated and lack clear missions. Indeed, this was a major reason for our support of the consumer agency bill. But, we believe more information needs to be developed on the consequences of assigning these responsibilities to the FTC, an independent agency. There need not be an elaborate study but other affected agencies, the Justice Department, selected interest groups, and selected members of Congress should be consulted. This process could be the first major assignment of the Special Assistant for Consumer Affairs in cooperation with OMB and the Domestic Policy Staff.

6. Enhancing Non-Advocacy Consumer Functions in Agencies:

We agree that the head of each agency should be directed to assess the adequacy of consumer programs in his or her agency. This is important in view of the elimination of funds for the Ford consumer representation plans.

We note that Mrs. Peterson recommends the transfer of the Office of Consumer Affairs at HEW to the General Services Administration Consumer Information Center (CIC). Since it is our view that a decision on establishing a consumer advocacy program in an independent or executive agency should be postponed temporarily, it might be best to delay any decision on transfer of OCA to GSA pending that decision. In the meantime, more detailed information on the consequences of this action and the views of affected persons and groups inside and outside the Executive Branch as well as key Congressmen should be consulted.